



W.P.No.4983 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.4983 of 2013

Ponmudi Muthusamy Gounder Trust,
Rep. by its Chairman,
67/1, Mandothari Thottam,
Alankattupudur,
Uthukuli Road,
Tiruppur – 641 607.

...Petitioner

-Vs-

1.National Highways Authority of India,
Represented by its Chairman,
G 5 & 6, Sector – 10,
Dwarka, New Delhi – 110 075.

2.The Project Director,
National Highways Authority of India,
212-3/D3-1, Sri Nagar Colony,
Narasothipatti,
Salem – 636 004.

3.Kumarapalayam Tollways Limited,
Kambuliyampatti,
Vijayamangalam Post,
Perundurai Taluk,
Erode District – 638 056.

...Respondents



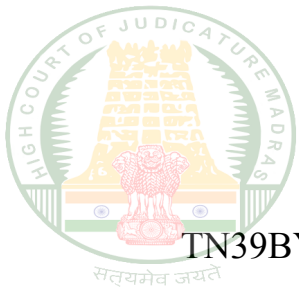
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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for the records of the respondents relating to the order of the 3rd respondent in Letter No.KTL/NHA/2012-001 dated 25.10.2012 and quash the same and direct the respondents herein to collect entry fees at toll plaza for the educational institution vehicles of the petitioner herein namely, TN33AW7707, TN33AW0423, TN564552, TN564843, TN33R9635, TN563937, TN563937, TN34BY1101, TN39BY1110, TN33AW8316, TN563836, TN563927, TN39BY0868 & TN39BY0871 on par with the entry fees for school buses carrying school students and pass such further orders.

For Petitioner : Mr.Kandhan Doraisami
For R1 & R2 : Mr.P.Wilson
For R3 : Mr.M.Rajendiran
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents relating to the order of the 3rd respondent in Letter No.KTL/NHA/2012-001 dated 25.10.2012 and quash the same and directing the respondents herein to collect entry fees at the toll plaza for the educational institution vehicles of the petitioner herein, namely, TN33AW7707, TN33AW0423, TN564552, TN564843, TN33R9635, TN563937, TN563937, TN34BY1101,



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TN39BY1110, TN33AW8316, TN563836, TN563927, TN39BY0868 &

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TN39BY0871 on par with the entry fees for school buses carrying school students.

2. The Petitioner is running the educational Institutions, including Sasurie College of Engineering, Sasurie Academy of Engineering Sasurie College of Arts & Science, Sasurie College of Education, etc., in the rural area of Tirupur District. The Petitioner is running several Educational Institution Buses with the above registration numbers. As per the provisions of Section 14 of the National Highways Authority of India Act 1988, the National Highways Authority has entered into an agreement with 3rd Respondent appointed as its agent for discharging the state functions contemplated under the provisions of the National Highways Authority of India Act. The 3rd Respondent is the "State" for the purposes of Article 12 of the Constitution of India.

3. The Government of India, Ministry of Shipping, Road Transport and Highways, Department of Road Transport and Highways in exercise of the powers conferred by Section 8A of the National Highways Act 1956 read



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with Rule 3 of the National Highways (Collection of Fees by any person for the use of section of National Highways/Permanent Bridge/Temporary Bridge on National Highway) Rules 1997, issued Notifications in S.O. No.4752(E) dated 13.02.2009 and published the same in the Extraordinary Issue of Part II, Section 3 (ii) of the Gazette of India No.293 dated 13.02.2009 and S.O. No.882(E) dated 30.03.2009 and published the same in the Extraordinary Issue of Part II, Section 3 (ii) of the Gazette of India No.545 dated 30.03.2009 fixing the rate of Base Fee per vehicle using the National Highways.

4. The 2nd Respondent vide letter Ref:NHAI/13013/341/07-08/CO/GC Salem, dated 07.08.2012, informed the Respondents herein regarding the approval of revision of toll fee rate for the Salem-Komarapalayam Section of National Highway 47 with effect from 01.09.2012. Along with this communication, the notification issued by the Government of India was enclosed.

5. The Respondents herein had been issuing monthly passes to the vehicles of the Petitioner carrying students of the educational institutions on

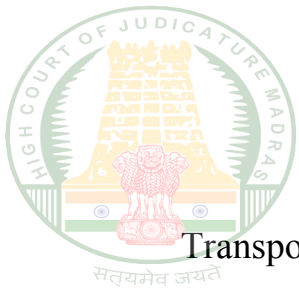


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collection of Rs.1,000/- per month. A uniform concessional rate of Rs.1,000/- was levied from all the vehicles carrying students to educational institutions, whether the institutions are schools, polytechnics, colleges or universities.

6. While being so, the 3rd Respondent, the Concessionaire of the National Highways Authority of India, has sent Letter No.KTL/NHAI/2012-001 dated 25.10.2012 addressed to the Principals of various colleges, including the Institutions run by the Petitioner to the effect that since college bus is not mentioned in the Gazette notification, the concessional rate of Rs.1,000/- per month will be applicable only to school buses and Truck/Bus carrying students and staff members to the colleges should pay at a higher rate. Aggrieved by the same, the Petitioner has come up with the present Writ Petition.

7. Learned counsel appearing for the Petitioner would submit that the impugned order of the 3rd Respondent is unsustainable since it is contrary to both Section 2(11) of the Motor Vehicles Act, 1988, and paragraph 7(ii) of the notification dated 08.05.2009 issued by the Ministry of Shipping, Road



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Transport and Highways (Department of Road Transport and Highways)

published in the Gazette of India dated 08.05.2009.

8. Learned counsel further submitted that the provisions of the Motor Vehicles Act treat all the vehicles carrying students and staff of all types of educational institutions, such as schools, polytechnics, colleges and universities on par. The permit for all the educational institution vehicles carrying students and staff to schools, colleges and universities is issued under the provisions of the Motor Vehicles Act only in one and the same form, namely Form PEV, and different types of permits are not issued for vehicles used for schools or colleges or universities.

9. Furthermore, the word "School" is used not only for the institutions offering courses up to Higher Secondary classes but also for other educational institutions offering higher education such as polytechnics, colleges and universities, and there is no distinction between the vehicles carrying students and staff to "schools" or "colleges".

10. It is submitted by the learned counsel for the petitioner that a number of similar writ petitions have already been disposed of by this Court,



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and the writ appeals have been filed. In one of the batch of the writ appeals in W.A.Nos.50 to 58 of 2013 and W.P.No.11731 of 2013 and W.P.No.30536 of 2015, by judgment dated 18.10.2024, the Division Bench of this Court was pleased to dismiss the writ appeals and the writ petitions. Hence, this writ petition is also liable to be dismissed.

11. Heard both sides and perused the materials available on record.

12. The judgment of the Division Bench of this Court in **W.A.Nos.50 to 58 of 2013 and W.P.No.11731 of 2013 and W.P.No.3056 of 2015 (Om Sri Vivekananda Educational Trust, rep. by its Authorized Signatory, Attur Main Road, Ramalingapuram, Salem 636 106. Vs. National Highways Authority of India, rep. by its Chairman, G 5&6, Sector-10, Dwarka, New Delhi 110 075, which held as follows:**

“4. Mr.Kandhan Duraisami, learned counsel appearing for the appellant Educational Institutions i.e. Colleges, have fairly submitted that, the similar issue arising out of the same Circular had already been considered by a Division Bench of this Court in the matter of Mahendra College of Engineering, Attur Main Road, Minnampalli, Salem and another Vs. The Government of India, represented by its Secretary, Department of Road Transport and Highways, Ministry of Shipping Road, Transport & Highways, New Delhi in W.A.No.560 of 2014 etc. batch, by judgment dated 25.04.2014. He has produced the copy of the



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said common judgment passed by the Division Bench, where the learned Judges have held as follows:

“3.The learned Single Judge after making reliance upon the earlier order passed, covering the very same issue, was pleased to dismiss the writ petitions. Challenging the same, the present writ appeals have been filed.

4.Mr. K.Duraisami, learned Senior Counsel appearing for the appellants submitted that as both the Colleges and Schools are imparting education, the exclusion of Colleges is bad in law. A College will have to be construed as a School and by doing so, the respondent will have to be directed to extend the benefits which has been given to the Schools. Similar issue is pending consideration before the Division Bench. Therefore, the writ appeals will have to be entertained.

5.We do not find any reason to entertain the writ appeals. The notification is very clear. When there is no ambiguity in the words/terms used by an authority, then the Court of law shall not venture to interpret the same in a different way. Admittedly, a School is different from a College. A School Student is also different from a College Student. The notification is only a concession given to the School Students. The appellant cannot seek the same as a matter of right. The power of judicial review in such matters is very limited. The learned Single Judge, has taken note of the law governing the issues raised, while passing the impugned order and we find no infirmity in the impugned order. We are, also of the view that the mere pendency of the writ appeal cannot be a ground to entertain a subsequent one.

6. In the result, we do not find any merit. The appeal is dismissed. No costs. The connected miscellaneous petitions are also dismissed.”

5. Therefore it has become clear that, a Coordinate Bench already considered the issue and given a quietus rejecting or repelling the grounds raised by the similarly placed writ appellants in the said batch of cases, therefore this batch of cases also have to face the same fate, accordingly all these appeals have to fail including the writ petitions. Therefore, these writ appeals and writ petitions are deserved



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to be dismissed accordingly are dismissed. However there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

The above judgment is squarely applicable to this case.

In view of the above ratio laid down by the Division Bench of this Court in W.A.Nos.50 to 58 of 2013 and W.P.No.11731 of 2013 and W.P.No.3056 of 2015, this **writ petition stands dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

10.02.2025

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Index : Yes/No

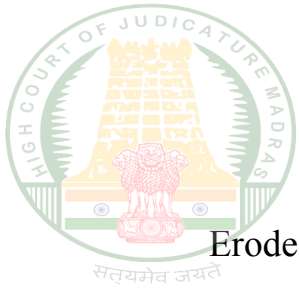
Speaking/Non Speaking order

To

1.The Chairman,
National Highways Authority of India,
G 5 & 6, Sector – 10,
Dwarka, New Delhi – 110 075.

2.The Project Director,
National Highways Authority of India,
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J.SATHYA NARAYANA PRASAD, J.

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