



W.P(MD)No.14613 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14613 of 2025

and

W.M.P.(MD)No.10863 of 2025

V.Mutharasu

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Regional Transport Officer,
Ramanathapuram,
Ramanathapuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to grant permit to the petitioner for running Auto-Rikshaw in Rameswaram, Ramanathapuram District.

For Petitioner : Mr.M.Kannan

For Respondents : Mr.B.Ramanathan
Additional Government Pleader
for R1 & R2



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ORDER

Heard both sides.

2. The writ petitioner wants this Court to direct the respondents to grant him permit for running auto-rickshaw in Rameshwaram in Ramanathapuram District. When similar issue was raised before me in W.P.(MD)No.6729 of 2019 etc., batch, vide order dated 23.07.2020, I had held as follows:-

“5.I carefully considered the rival contentions. Let me take up Rule 165 of Tamil Nadu Motor Vehicle Rules, 1989 for consideration. The said Rule reads as under:

“165.Limit upon number of permits.-When a transport authority has in exercise of its powers under the Act, imposed a limit upon the number of permits of any class which may be granted for a specified route or a specified area and has already granted such number of permits of that class, the Transport Authority or the Secretary of the Transport Authority, if authorised in this behalf by the Transport Authority, may decline to receive further application for such permits in respect of any such route or areas.”

6.I am afraid that the respondents have misconstrued the scope of the said Rule. The operation of the Rule will kick in only if a curb or limitation is imposed by the transport authority. The expression occurring in this Rule “in exercise of its power under the Act” is significant. In other words, the transport authority must exercise its power and justify the imposition of ceiling with reference to the provisions referable to the parent



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Act. There can be no dispute that Rule 165 refers to Section 74(3)(a) of the Motor Vehicles Act, 1988 which reads as under :

“74.Grant of contract carriage permit.-

(1).....

(2).....

(3)(a)The State Government shall, if so directed by the Central Government, having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of contract carriages generally or of any specified type as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs.

7.Even a bare reading of the aforesaid provision would lead one to come to the conclusion that the question of State Government directing the State Transport Authority and the Regional Transport Authority to limit the number of contract carriages generally or at any specified type would arise in the event of it being directed by the Central Government in this regard.

8.The petitioners' counsel strongly contends that no such direction has ever been issued by the Central Government. This matter was taken up on more than one occasion to enable the Government Advocate to produce the notification, if any, issued by the Central Government. The respondents are not able to produce any such direction or notification issued by the Central Government. When no such direction as contemplated in Section 74(3)(a) of the Motor Vehicles Act, 1988 is available, the question of State Government directing the State Transport Authority or Regional Transport Authority will not arise. The State Government has also not issued any such notification. It



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appears that the Regional Transport Authority on his own had taken a policy decision. The act of the Regional Transport Authority is illegal and without jurisdiction. The Regional Transport Authority can impose curbs on number of permits, as per Rule 165 of aforesaid Rule, only if the said power has been conferred on him by the State Government. The State Government in turn can do so if it has been so directed by the Central Government. Thus, the direction issued by the Central Government will be the sheet anchor.

9. In this case, as rightly pointed out by the learned counsel for the petitioner, the condition precedent for invoking Rule 165 is absent. The State Government also does not appear to have given any direction. The respondents appear to have forgotten that the right to eke out livelihood by driving a commercial vehicle is a fundamental right guaranteed under Article 19(1)(g) of the Constitution of India.

10. Therefore, I have no hesitation to hold that the act of the respondents is violative of the statutory scheme set out in the Motor Vehicles Act and the Rules framed thereunder. It also adversely affects the fundamental rights of the petitioners herein. The orders impugned in these writ petitions stand quashed. The respondents are directed to issue the petition mentioned permits without delay subject to the petitioners complying with the relevant formalities. In the result, these writ petitions are allowed.”

3. Another learned Judge of this Court (Hon'ble Mr. Justice N. ANAND VENKATESH), vide order dated 06.10.2020 in W.P.No.12531 of 2020 had held as follows:-



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“8.The issue involved in the present writ petition has been lucidly dealt with by the State Transport Appellate Tribunal, Chennai in M.V.Appeal No.20 of 2018. It will be relevant to extract the reasonings given by the Tribunal while allowing the appeal filed by a similarly placed person.

"9.Section 74(3)(a) of the Motor Vehicles Act, 1988, reads as follows:

"The State Government shall, if so directed by the Central Government having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of contract carriage generally or of any specified type as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than lakhs."

But, as read above, the Tamilnadu Government has not fixed any limit considering the population and other grounds in the number of contract carriages and also, has not issued any notification as per Section 74(3)(a) of the Motor Vehicles Act, 1988.

Rule 165 of the Tamil Nadu Motor Vehicles Rules, 1989 reads as follows:

"Limit upon number of permits: When a transport authority has in exercise of its powers under the Act, imposed a limit upon the number of permits of any class which may be granted for a specified route or a specified area and has already granted such number of permits of that class, the Transport authority or the Secretary of the Transport Authority, if authorized in this behalf by the Transport Authority, may decline to receive further application for such permits in respect of any such route or areas."

While so, when the Transport Authority in exercise of its power provided under Section 74(3)(a) of the Motor Vehicles Act, 1988, has not limited the number of permits of contract carriage for the specified route or the specified area and considering the population then, the act of the respondent, rejecting the appellant's application for new grant on the said ground is against law. On the contrary, it is seen that the Government has issued a notification in G.O.Ms.No. 463, Home (Transport III) Department, dated 13.5.2010, lifting the ban on grant of new auto rickshaw permit throughout the State. Hence, the reasons mentioned



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by the respondent authority for rejection is unsustainable.

9. In the case of *C.Sukumar Vs. The Transport Commissioner, State Transport Authority, Chennai 5* and another, in W.P.Nos.17636 to 17644 of 2015 dated 19.06.2015, our Hon'ble High court has held

"5. This Court is unable to appreciate the above contention for the simple reason that when G.O.Ms.No.463 Home (Transport III) Department dated 13.05.2010 was issued five years ago lifting the ban with immediate effect,The second respondent (s) ought not to have refused to receive the applications for grant of auto rickshaw permit."

"6. This Court intends to make it clear to the Authorities concerned that while they are bound to act only based on Rules and Regulations governing them, at the same time, they should also be alive to the social responsibility in applying the set or rules in such a manner that none of their acts should disturb the essential concessions already made available to the public, in particular, to those who are socially and economically backward."

High Court has further held that,

"7. ... in the light of the above G.O.Ms.No.463 Home (Transport III) Department dated 13.05.2010, the second respondent in each of the writ petition is hereby directed to receive the applications of the petitioners along with requisite fee forthwith and grant auto rickshaw permits within a period to two weeks from the date of receipt of a copy of this order."

Therefore, the above case law squarely applies to the instant case and in view of the observation made in the above case law, the reasonings of the respondent cannot be considered under any of the aspects mentioned in the impugned order.

10. It is also relevant to cite the ratio laid down by the Hon'ble Apex Court in *Mithilesh Gang Vs. Union of India* and others reported in AIR 1992 SC 443. In the said Judgment, the Hon'ble Supreme Court has held as follows,

'Motor Vehicles Act (59 of 1988) The Statement of Objects and Reasons of the Act (Motor Vehicles Act, 1988) shows that the purpose of bringing in the Act was to liberalise the grant of permits.

There is no threat of any kind whatsoever under the new Act from any authority to the enjoyment of the right of the existing operators under Article 19(1)(g) to carry on the occupation of transport operators. More operators mean



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healthy competition and efficient transport system. ... The policy to grant permits liberally under the Act is directed towards the said goal."

Thus, the reasons stated by the respondent authority for the returning of the appellant's application for new grant is apparently against the ratio laid down in the above mentioned case laws. Moreover, before issuing new grant, on mere surmise and conjecture, the respondent cannot reject the appellant's application, which is against the statutory right of the appellant. Further, in the above mentioned Mithilesh Garg case, the Hon'ble Apex Court has observed that Section 80(2), which is the harbinger of Liberalisation, provides that a Regional Transport Authority shall not ordinarily refuse to grant an application for permit of any kind made at any time under the Act. Therefore, in view of the liberalized policy of grant of permits under the Motor Vehicles Act, 1988, the grant of permit is the rule and the refusal of permit an exception. Hence, from the overall analysis of the facts and circumstances of this instant case and also, taking into consideration the dictum laid down by the Hon'ble Apex Court that a lenient and liberal view has to be taken in view of liberalized policy enshrined in the Motor vehicles Act, 1988 and also giving due weight by giving the benefit of the benevolent provisions of the Act and by giving paramount consideration of public interest and above all, the Government has ordered lifting the ban on grant of new autorickshaw permits throughout the State, this Tribunal is of the view that the respondent has rejected the appellant's application for new grant on unacceptable and unsustainable grounds and hence, needs interference. Therefore, the impugned order passed by the respondent is hereby set aside and the appellant is entitled to get the contract carriage autorickshaw permit, subject to the production of valid necessary documents. Hence, this appeal deserves to be allowed and thus, the points are answered accordingly.

In the result, the appeal is allowed and the order of the Regional Transport Authority, Salem (East), Salem made in R.A.T.Mu.7171/E4/2018, dated 14.03.2018 is hereby set aside. The appellant is entitled for a contract carriage autorickshaw permit and the respondent is directed to grant a contract carriage autorickshaw permit to the appellant within a period of four weeks from the date of receipt of the copy of this judgment along with the appellant's application along with its enclosures and connected records."



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9.The first respondent has thought it fit not to fix any limits for the grant of auto rickshaw permits throughout the State of Tamil Nadu. As rightly held by the Tribunal, the fourth respondent cannot issue a circular contrary to the Government Order. That apart, no notification has been issued under Section 74(3)(a) of the Motor Vehicles Act, 1988 limiting the number of permits of contract carriage for the specified route or the specified area. In view of the same, the fourth respondent does not have the jurisdiction to issue the impugned circular dated 27.11.2019. It is clearly ultra vires the Government Order passed in G.O.Ms.No.463 dated 13.05.2010. The reasoning given by the Appellate Tribunal is perfectly right and the same will also apply to the case of the petitioner.

10.Insofar as the pending writ petition that was brought to the notice of this Court in W.P.No.30613 of 2018 is concerned, that writ petition is a case where a complaint has been made by the Bus Owners' Association that auto rickshaws are violating the terms and conditions of permit and are carrying excess passengers than permitted and are causing a lot of disturbance in the bus stand. This is an independent issue over which an action has to be taken by the fourth respondent and it will be well within his powers. The same cannot be extended and applied even for cases where a new permit is sought for. Such applications will have to be independently considered in line with the Government Order. Taking action against the auto rickshaws who are violating the permit conditions has no nexus for considering a fresh application for issue of a permit to an auto rickshaw. Two issues which have absolutely no connection whatsoever is unnecessarily clubbed together and the fourth respondent has proceeded to issue the impugned circular.

11.In the considered view of this Court, the impugned circular issued by the fourth respondent dated 27.11.2019 is beyond his jurisdiction and it is ultra vires G.O.Ms.No.463, dated 13.05.2010. In view of the same, this Court has no hesitation to interfere with the said circular issued by the fourth respondent and accordingly, the same is quashed. The fourth respondent is directed to consider the application submitted by the petitioner for grant of auto rickshaw permit and necessary orders shall be passed within a period of four weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh application



before the fourth respondent along with all relevant documents and a copy of this order.”

4. In the counter affidavit filed by the respondents, it has been stated as follows:-

“7. At this event, the present writ petitioners filed 9 (Nine) writ petitions seeking for prayer to issue Auto permits to them also so as to ply in Rameswaram Island as akin to Auto permits granted already to 10 fishermen by the 2nd respondent based on the recommendation of the committee report. It is also considered that all the writ petitioners are not fishermen affected by the action of Ceylon Naval Coastal Force and losing their boats and their life hoods both simultaneously and they are seems to be ordinary public living in Rameswaram Island having valid driving license so as to drive auto-rickshaws seeking for prayer to grant auto-permits to them also.

8. In this contention, it is humbly submitted that as on date 930 auto permits were granted to ply in Rameswaram Island as narrated in supra. As if the flood gate is opened now for grant of free auto permits in Rameswaram Island then it will lead to much hardship due to heavy traffic congestion, uncontrolled traffic regulations results in many accidents and also leads to law and order problems in the Rameswaram Island which seriously affected the pilgrims. Further the ban required to be issued by the Government of Tamil Nadu under Section 74(3)(a) of MV Act, 1988 is seems to be still under pending consideration so as to curb further grant of auto permits in the Island and the Transport Commissioner Chennai has also been reminded to issue appropriate notifications in the matter.

9. However, pending decision of the Government, at present no ban is in force in Rameswaram Island and it may results in receiving of so many applications from all corners to grant auto permits to them and even they may also seeking for shelter under Court of law so as to get directions to issue



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permits in Rameswaram Island.

10. It is also humbly submitted that to avoid such critical situation, and to eliminate further traffic congestion in Rameswaram Island, total of 930 auto permits now issued in Rameswaram Island in considered as sufficient at present. However, as if the High Court considered as if deems fit, all the writ petitioner's request for issuance of auto-permits may also be considered after due verification by the revenue department with regard to their present status and life style as on date and feasibility to grant auto permits to them only at present as and when need arises. They may also be informed through appropriate notification inviting applications and grant permit accordingly to their seniority as recommended by the Revenue Department and further application if any received apart from the writ petitions may be eliminated according to the reasons mentioned in foregoing paragraphs.”

5. The practical difficulties pointed out by the learned Additional Government Pleader are undoubtedly true. However, the issue has to be decided on a legal basis. The points highlighted in the earlier judicial orders have not been met by the respondents in the counter affidavit. I was wondering as to how I should couch the relief portion. While Justice Anand Venkatesh had called upon the authority to consider the application submitted by the petitioner and pass an appropriate order, even while allowing the writ petition, I had straight away given a direction for issuance of permits. I thought I would adopt the approach of Justice Ananth Venkatesh. But then, the learned counsel for the writ petitioner points out that as many as 9 permits were issued in the recent past. This has been conceded in the counter affidavit also. There is no



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justification for denying permit to the writ petitioner. I therefore direct the respondents to issue auto-rikshaw permit sought by the petitioner immediately and without any delay.

6. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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To

- 1.The District Collector,
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G.R.SWAMINATHAN, J.

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