



W.A(MD) No.1236 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 26.03.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

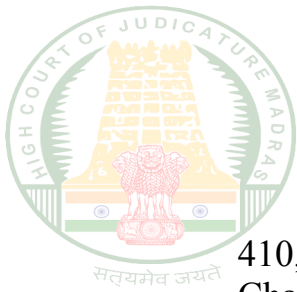
**W.A(MD) No.1236 of 2022
and
C.M.P.(MD)Nos.9622 & 9624 of 2022**

M/s.Jayakrishna Flour Mill,
Represented by its Managing Director,
R.K.Mohan,
Having Office at
No.82/3, Maravankulam,
Thirumangalam,
Madurai.

... Appellant / Petitioner

Vs

- 1.The Government of India,
Rep. by its Secretary,
Minister of Surface / Road Transport,
New Delhi.
- 2.The Project Director,
National Highways Authority of India,
H.No.83/1, SBI First Colony Extension,
Bypass Road, Madurai.
- 3.The Authorized Representative,
M/s.Raima Toll Road (P) Ltd.,



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410, Boomerang,
Chandivali Farm Road,
Near Chandivali,
Mumbai-400072.

4.The District Collector /
Regional Transport Authority,
Madurai District, Madurai.

5.The Project Head,
M/s.Madurai Kanyakumari Tollway Ltd.,
SPV Office of Madurai-Kanyakumari Section,
No.11, Amaithisolai Road,
Sundar Nagar,
Opp to Vetrivinayagar Kovil,
Madurai District-625 006.

... Respondents / Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying
this Court to set aside the order made in W.P.(MD)No.5617 of 2014
dated 01.09.2022.

For Appellant : Mr.S.Parthasarathy
for Mr.R.K.Arunjunai

For Respondents : Mr.S.Jeyasingh
for R1
: Mr.Sachin Ragul
for Mr.C.Arulvadivel @ Sekar Associates
for R2 & R3
: Mr.S.Meenakshi Sundaram
for Mr.C.Sasikumar for R5



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ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The appellant herein is running a flour mill in Thirumangalam. They are having two units. The first unit is located in NH-44 ie., at a distance of 500 meters from Kappalur Tool Plaza, Thirumangalam. The second unit is located in SDTCO Industrial Estate, Kappalur. According to the appellant, these two units are started at a distance of less than two kilometers. According to them, they need to transport goods and other items from one unit to other. Since the Kappalur Toll Plaza is located in between, their vehicles have to necessarily pass and repass through the said plaza. According to the appellant, all the vehicles have been registered with the RTO, Thirumangalam. The appellant, therefore, sought exemption from payment of toll fee. Seeking the aforesaid relief, the appellant filed W.P.(MD)No.5617 of 2014. The writ petition was dismissed by the learned single Judge vide order dated 01.09.2022. Challenging the same, this writ appeal has been filed.



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3. When the writ appeal is taken up for final hearing, the learned counsel for the appellant submitted that a peace committee meeting was convened on 15.07.2024 under the aegis of the Hon'ble Minister for Commercial Taxes and Registration Department and an informal arrangement was worked out. Since the learned counsel for the concessionaire questioned the legal basis of the said arrangement, we called upon the District Collector, Madurai to file a status report. The District Collector, Madurai has today filed a status report which reads as follows:-

“6. I respectfully submit that the dispute regarding the installation of Kappalur Toll Plaza is a long standing issue and there were several law and order issues that arose demanding to remove the Toll Plaza or to offer an exemption from paying toll fee. Accordingly, in respect of this Toll Plaza, law and order issues are created by the local residents till date. Thereupon, in order to put a quietus to the situation several steps were taken by the then authorities concern as well as by this respondent. In continuation, a meeting was convened on 15.07.2024 in the presence of Hon'ble Minister for Commercial Taxes and Registration along with Revenue Department Officials, Police Officials and representatives of Kappalur Industrial estate and general public including the second respondent / NHAI authorities. In the said meeting, the following demands were raised by the general public.

1. The Toll Plaza has to be shifted to some other place.



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2. In Toll Plazas located in Coimbatore, Nilakottai & Chittampatti, exemptions are given to vehicles for the locals and hence the same to be extended here also.

3. The TATA Ace Commercial Vehicles which are plying in and around the local villages have to be exempted from paying toll fee.

The above demands of the general public were taken into consideration and it was decided that the general public in the neighborhood who are claiming exemption from paying toll plaza are directed to submit their Aadhar card as well as RC book of the vehicles establishing that they are from the local village to the Revenue Divisional Officer, Thirumangalam and on receipt of the said documents, it will be requested with NHAI to consider for exemption of toll fees.

7. I respectfully submit that even in the year of 2023, the second respondent has submitted a report dated 09.06.2023 in the following manner.

1.Kappalur toll plaza is located at Km 18+652 in Madurai – Kanyakumari section of NH-44. Toll Plaza started functioning from 10.09.2012.

2. At present, the stretch has been handed over to TOT Concessionaire w.e.f 20.10.2020 (0.00hrs). The user fee is being collected by the TOT Concessionaire without violating the NH Fee rules.

3. Concessions that are available for local people and frequent road users as per NHAI fee rules (Determination of rates and collection 2008 are as under):

a. Concessional monthly pass for local non-commercial vehicles belonging to those who are residing within the distance of 20 km from the fee plaza (Rs.330/month-for the year 2023-24).

b. Fee for commercial vehicle (excluding vehicles plying under national permit) registered in the district where the fee plaza falls shall be 50% of the prescribed rate for that category of vehicle provided no service road or alternative road is available for use of such commercial vehicles.

C. Monthly pass provision for frequent users by paying 2/3rd fee for 50 trips for a month and return journey pass by paying 1 ½ times of single fee for



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returning within 24 hours are extended to the road users.”

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8. On receipt of such report, the fourth respondent vide letter No. 55252/2019/C5 dated 04.08.2023 has requested the Secretary, Highways and Minor Ports (HV1) Department, Secretariat, Chennai to consider the demands of the public near the toll plaza by taking up the issue with the officials of National Highways Authority of India and to facilitate an amicable solution. The issue was taken up by the Chief Secretary, Tamil Nadu in a meeting with Chairman, NHAI and minutes have been drawn. The extract of the same is as follows:-

Demand for exemption from payment of user fee at Kappalur Fee Plaza

Chairman appraised the on-going issue regarding the shifting of Kappalur Toll Plaza. It has been appraised that inspite of the Hon'ble Supreme Court order dated 07.04.2015 which gives a favourable order on authority regarding location of the toll plaza, the demand for relocating the toll plaza has un-remained unresolved and the local people requesting exemption. It has been emphasized that though the concessional monthly passes for local non-commercial vehicle and 50% concession for commercial vehicle registered in the District, the local users are not availing the above concessions and requesting for exemption of the toll. Due to the above, continued forced exemption of the locals has been insisted by the District Administration in order to maintain the law & order situation. Chief Secretary, Government of Tamil Nadu informed that these has been a continuous protest on the above issue since long and requested NHAI to consider exemption for the local vehicles passing towards Thirumangalam Town by taking the supporting document as Aadhar, RC of the vehicle which would be duly certified by the District Collector, RDO Thirumangalam & RTO Thirumangalam.



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9. I respectfully submit that nearly 406 applications were received in this regard. Out of 406 petitions 285 petitions are within the radius of 5 kilometers and remaining 121 petitions are away from 5 km radius. The Revenue Divisional Officer, Thirumangalam has submitted a report on 22.10.2024 stating that out of 285 petitions nearly 62 petitions are eligible for granting exemption from payment of toll plaza along with the list of the said persons. The said report was also forwarded to the second respondent by the Revenue Divisional Officer, Thirumangalam on 12.11.2024. It is submitted that a reply has been received from the National Highways Authority of India, Project Implementation Unit, Madurai vide letter dated 05.12.2024 stated that 62 applications eligible for exemptions from paying toll fee received includes some commercial vehicles also and no exemption to commercial vehicles can be granted. Now, the final approved list of 30 persons has been sent to the Project Direction NHAI vide letter Roc.No.786/2024/A2, dated 19.03.2025.

4. Our attention was also drawn to the minutes of the meeting held with the then Chief Secretary, Government of Tamil Nadu by Chairman, NHAI at Chennai on 18th July 2024 for discussion on the issues in NHAI Projects in the State of Tamil Nadu. The following minutes are relevant to the case on hand.

**“Demand for exemption from payment of user fee at
Kappalur Fee Plaza**

Chairman appraised the on-going issue regarding the shifting of Kappalur Toll Plaza. It has been appraised that inspite of the



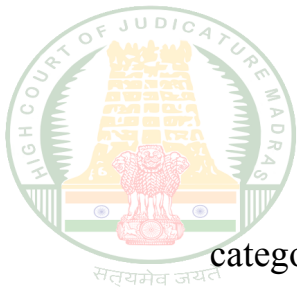
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Hon'ble Supreme Court order dated 07.04.2015 which gives a favourable order on authority regarding location of the toll plaza, the demand for relocating the toll plaza has un-remained unresolved and the local people requesting exemption. It has been emphasized that though the concessional monthly passes for local non-commercial vehicle and 50% concession for commercial vehicle registered in the District, the local users are not availing the above concessions and requesting for exemption of the toll. Due to the above, continued forced exemption of the locals has been insisted by the District Administration in order to maintain the law & order situation. Chief Secretary, Government of Tamil Nadu informed that these has been a continuous protest on the above issue since long and requested NHAI to consider exemption for the local vehicles passing towards Thirumangalam Town by taking the supporting document as Aadhar, RC of the vehicle which would be duly certified by the District Collector, RDO Thirumangalam & RTO Thirumangalam.”

5. It is the stand of the authorities that the issues had already been taken up by the Central Government. It is stated that Tamil Nadu Government has written to the Hon'ble Minister for Surface / Road Transport, Government of India, New Delhi in this regard. As per the National Highways Fee (Determination of Rates and Collection) Rules, 2008, any person passing through a Toll Plaza located in the National Highways will have to pay the prescribed fee unless they fall within the



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category of exempted persons set out in Rule 11.

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6. We therefore direct the Chief Secretary, Government of Tamil Nadu to send a formal representation to the Central Government for considering inclusion of the local residents of Thirumangalam for being exempted from payment of fee. Such representation shall be sent by the Chief Secretary within a period of four weeks from the date of receipt of a copy of this order. The first respondent is directed to consider such representation and pass an appropriate order within a period of three months thereafter.

7. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S., J.) (M.J.R., J.)
26.03.2025

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