

**(1993) 03 MAD CK 0052**  
**In the Madras High Court**

J. Krishnamoorthy

APPELLANT

Vs

The State of Tamil Nadu and Another

RESPONDENT

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**Date of Decision :** 04-03-1993

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 72, 73, 74, 88, 88(8)

**Citation :** (1993) 1 MLJ 629

**Hon'ble Judges :** Srinivasan, J

**Bench :** Single Bench

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**Judgement**

Srinivasan, J.—This matter is covered by my order dated 26.2.1993 in W.P. Nos. 15923 of 1991 etc. (batch) (K.V. Sekar v. The State of Tamil Nadu and Ors.). In those cases, I have held that the basic permit was only operative within a radius of 2 Kms. from the place of business of the permit holder and such basic permit would not enable the petitioner to claim the benefit of G.O.Ms. No. 894, dated 29.5.1991 by virtue of the special permit obtained by him u/s 88(8) of the Motor Vehicles Act, for short "the Act". In the present case, it is argued by learned Counsel for the petitioner that the basic permit refers to Section 74 of the Act and it is the one issued under that section, with the result the provisions of Section 88(8) of the Act are satisfied. Learned Counsel refers to the caption at the top of the permit which reads as follows:

Basic contract carriage permit issued u/s 74 of the Motor Vehicles Act, 1988.

There is a fallacy in this contention. No doubt Section 88(8) of the Act merely refers to permits granted under Sections 72, 74 and Sub-section 9 of Section 88. But, Section 74 which is the relevant section in this case prescribed that a Regional Transport Authority may, on an application made to it u/s 73, grant a contract carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit; provided that no such permit shall be granted in respect of any area not specified in the application. It is not necessary to consider whether the petitioner had applied for a larger area or not. The permit issued is very clear in its terms and it is

mentioned in paragraph 6 that the vehicle is to operate within a radius of 2 Kms. from the place of business of the permit holder. That is said to be the radius/area for which the permit is valid. If the basic permit is not valid with reference to any area outside the radius of 2 Kms. from the place of business of the permit holder, it goes without saying that under the provisions of Section 88(8) of the Act, the petitioner cannot be considered to be a holder of the permit u/s 74 of the Act for such area. Hence, for the purpose of G.O.Ms. No. 894, dated 29.5.1991, the petitioner cannot be considered to be a valid special permit holder u/s 88(8) of the Act, as he does not have any basic permit u/s 74 of the Act with reference to any area outside the radius of 2 Kms. from the place of business. In the present case, it is seen from the copy of the special permit produced by the petitioner that it is issued pursuant to the orders of the High Court of Andhra Pradesh in a writ petition and the permit has been granted to the permit holder to pick up passengers at Madras. Proviso (a) to G.O.Ms. No. 894, dated 29.5.1991 is as follows:

the public service vehicles covered by special permits granted under Sub-section (8) of Section 88 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988) by the transport authority of a State other than the State of Tamilnadu to pick up and get down passengers in the State of Tamil Nadu:

If the special permit relied on by the petitioner permits him to pick up passengers and get them down in the State of Tamilnadu and if such permit is issued by a State other than the State of Tamil Nadu proviso (a) will clearly govern and in the present case, there can be no doubt that proviso (a) is applicable. Consequently, the exemption granted by G.O.Ms. No. 894, dated 29.5.1991 is not available to the petitioner.

2. In the result, the writ petition is dismissed, There will be no order as to costs.