
(2001) 08 MAD CK 0140

In the Madras High Court

Case No : Writ Petition No's. 8457, 12799, 12800, 12921 to 12923 and 13072 of 2001 etc.

P. Manoharan

APPELLANT

Vs

The Regional Transport Authority

RESPONDENT

Date of Decision : 08-08-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 72

Tamil Nadu Motor Vehicles Rules, 1989 — Rule 181, 248, 3, 306

Citation : (2001) 08 MAD CK 0140

Hon'ble Judges : P. Shanmugam, J

Bench : Single Bench

Advocate : A. Ganasan, K. Hariharan, K. Sridhar, K. Rajasekaran, C.R. Krishnamoorthy and S. Govindaraman, for the Appellant; D. Krishnakumar, Special Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

P. Shanmugam, J.—All the Petitioners were grantees of Mini Bus permits. As per the proceedings of the Regional Transport Authority, the applications of the Petitioners were processed by considering the relevant documents produced by the Petitioners like the workshop Agreement, Solvency Certificate, Rough Sketch of the Map, etc, and the route was inspected and certified by the Executive Engineers concerned. The applications were further verified by the Motor Vehicle Inspectors concerned regarding the claims of the Petitioners and the distance of the routes. After all this verification and consideration, on being satisfied-that the operation of Mini Stage Carrier Service on the routes would serve the rural folk in a better manner and that the applicants satisfy all the conditions, in exercise of the power conferred u/s 72 of the Motor Vehicles Act 1988, Mini Stage carrier permits were granted to the Petitioners. The grantees were required to produce the mini buses as per the specifications to the definition of Rule 3(o) read with Rule 306 of the Tamil Nadu Motor Vehicles Rules 1989 along with valid Tax. Fitness Certificate, Insurance Certificate, etc., within a period of three months

from the date of receipt of the proceedings. The Regional Transport Authority has also stated that on their failure to do so, the orders issued will be revoked under Rule 181 of the Rules.

2. In pursuance to these proceedings, the respective Regional Transport Authorities have proposed to fix the schedule of timings by convening Timing Conferences. However, the Conferences were being adjourned without fixing the timings. The Petitioners, who have invested money, most of them on financial arrangements for purchasing the mini buses, are awaiting proceedings of timings. Since the Timing Conferences have been repeatedly postponed endlessly, which causes irreparable loss and damage to the Petitioners, the above writ petitions have been filed.

3. The Special Government Pleader was asked to get instructions and to find out whether there is any impediment in fixing the timings. He submits that the Timing Conferences have been adjourned at the instance of State Transport Corporation, since they wanted to submit their objections to the timings.

4. The mini bus permits were proposed to be granted in pursuance to a policy decision of the Government of Tamil Nadu in G.O. Ms. Nos. 727 to 747, Home (Tr. Government III) dated 16.05.1997 for all Districts except Chennai published in the modified area scheme in Tamil Nadu Government Gazette Extraordinary dated 4.9.1997. On the basis of this draft modified notification, the Government of Tamil Nadu, in GO. Ms. No. 1475 dated 07.10.1997, decided to grant permits to private operators for operation of mini buses. These Government Orders for operating of mini buses and the decision of the Government to introduce mini buses were challenged before this Hon'ble Court in two batches of Writ Petitions i.e., W.P. Nos. 12476 etc.. of 1998 and W.P. Nos. 19067 to 19069 etc.. of 1999 and both these batches of Writ Petitions were dismissed by this Court by orders dated 30.01.1999 and 28-07-2000 respectively. Before this Court, the State Transport Undertakings represented that they had no objections and that their interest is not prejudiced by the mini bus operations. They had also no proposal to cover rural areas. The State Government also filed a counter affidavit stating that the Government took into consideration the need to serve the public in rural areas and therefore, decided to permit plying mini buses in the unserved rural areas by private operators. E. Padmanabhan, J., in the batch of Writ Petitions, held that the State Government is well within its authority in relaxing the exclusion of the entire operation to a limited extent with the object of serving rural mass to whom the benefit of nationalisation could not reach.

5. A Division Bench of this Court, in Cholan Roadways Corporation v. S. Sinnaiyan and Ors. in W.P. Nos. 11796 etc. of 1998 by order dated 25-10-1995, held that the existence of a scheme of total exclusion does not necessarily mean that the need of the travelling public between several sections or stages of the route lying in between cannot be taken care of. According to the Division Bench, judicial notice can be taken of the fact that in these twenty years, there has been a tremendous increase in the (sic) population as well as in the development

activities. Therefore, the need of the travelling public in between a portion of the route can be met without waiting for modification of the scheme.

6. In another batch of Writ petitions -W P Nos. 3347 etc. of 2001, by order dated 02-07-2001, following the above judgments, I have taken the view that the provision of granting mini bus permits is a policy decision taken for the benefit of the travelling public who are lacking transport facilities all these years.

7. From the records and the arguments, it is seen that the overlapping served sector does not exceed four kilometres by the mini bus operations and 80% of the area is unserved. It is common knowledge that invariably, the long distance stage carrier operators do not serve short distance passengers and most of them operate on State and National Highways. The town buses do not extend beyond 30 kilometers. Besides, the capacity of mini bus is 25, whereas the capacity of a stage carrier is 80 (40 seating plus 40 standing), whereas the capacity of a stage carrier is normally 55. The passengers going on a regular stage carrier route bus will never prefer to go on a zig zag mini bus route on an increased fare. The rural public are entitled for a basic right of free movement. It is not in dispute that people living in remote villages unserved by transport vehicles with inadequate facilities are not able to improve their social and economic conditions. Therefore, the provision of a mini bus is a measure to promote the public interest of rural folks and who are in fact suffering for want of transport facilities. It is common knowledge that the existing mini bus operations have been welcomed by the rural people, agriculturists and students living in those remote areas in order to advance their education, economic and social activities. Therefore, the public interest demands that the authorities must give effect to the policy of the Government and implement the provisions of the Act with urgency and expediency.

8. The existing operators or the Corporation cannot be aggrieved by the grant of permits to these mini buses as their operation not exceeding four kilometres of served sector will not prejudice their interest. In some cases, the served sector may be for one or two kilometres and as pointed out earlier, the commuters going on a mini bus are rural people and they may not normally go on the regular stage carrier route buses. However, as per Rule 248, the authorities, have proposed the timings of the Petitioners, inviting objections on the timings as required. Therefore, there is no acceptable reason as to why the Timing Conferences should have been adjourned. Whatever may be the reason, the respective Regional Transport Authorities must take up the proposals of timings of the Petitioners and dispose them of with utmost expediency.

9. As rightly pointed out, Rule 181 has reduced the period for production of the vehicle from six months to three months. All the Petitioners herein have stated that they had to make financial arrangements and have got their vehicles ready. Any delay in granting of timings will not only prejudice the interest of the Petitioners. Since they may have to pay the instalments and the interest thereon for their loans, salary to the staff and provisions for their workshop etc., Besides,

the rural travelling public is also deprived of the facility.

10. Taking into account all these facts, the following directions are issued to the Respondents;

(a) As and when the grantees of Mini Bus permits produce the records of mini buses as required, the proposals shall be notified with the schedule for the holding of a Timing Conference, within two weeks of their production.

(b) The proceedings of the Timing Conference shall be completed within four weeks thereafter.

(c) The permits shall be issued on the basis of the timings fixed within two weeks thereafter.

11. The Respondents shall keep up this schedule unless and otherwise exceptional circumstances warrant for its postponement. In any event, the whole process should be completed within a period of ten weeks from the date of production of the mini buses.

12. All the writ petitions are allowed with the above directions. Consequently the connected W.M. Ps are closed.