

(2014) 07 MAD CK 0117

In the Madras High Court

Case No : Writ Petition No. 1742 of 2010 and M.P. No. 2 of 2010

S.Ananthakrishnan

APPELLANT

Vs

The Regional Transport Authority

RESPONDENT

Date of Decision : 07-07-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 89(1)(e)

Citation : (2015) 1 ACC 501 : AIR 2014 Mad 271

Hon'ble Judges : R. Sudhakar, J

Bench : Single Bench

Judgement

R. Sudhakar, J.—This Writ Petition is filed challenging the order of the State Transport Appellate Tribunal dated 03.09.2009 in M.V.Appeal No.151 of 2009, which came to be passed under Section 89(1)(e) of the Motor Vehicles Act, 1988.

2. The Writ Petitioner is a permit holder of Mini Bus bearing Registration No.TN-22-A-2099. The permit was valid till 07.06.2006. The petitioner has applied for renewal of permit on 23.5.2006 before the Regional Transport Authority, Thoothukudi. The application for renewal was returned to the petitioner on 07.06.2006 to rectify certain defects in terms of Section 166 of the Tamil Nadu Motor Vehicles Rules, 1989 by giving seven days time for rectification of defects and also to furnish five documents that are required to be re-submitted. The said application was not re-submitted within a period of seven days but was re-submitted by the petitioner, with a delay of 2 years and 10 months, on 24.3.2009. The petitioner states that the delay is not on the part of the petitioner but on account of the financier refusing to issue No Objection Certificate. The said application was rejected by the Regional Transport Authority on 22.6.2009. Aggrieved by the same, the petitioner has preferred an appeal before the State Transport Appellate Tribunal.

3. The Tribunal, after hearing the petitioner, dismissed the appeal holding that as per Rule 166 of the Tamil Nadu Motor Vehicle Rules, 1989, even though the financier refuses to issue the No Objection Certificate, the petitioner has to re-

submit the application for renewal within a period of seven days. Challenging the order of the Tribunal, the petitioner has preferred the present Writ Petition.

4. The plea of the petitioner is that since the financier has not issued the No Objection Certificate for renewal of permit, he could not be in a position to re-present the application within a period of seven days. Hence, for no fault of the petitioner, the grant of renewal could not be rejected.

5. The respondent has filed a counter affidavit contending that as per Rule 166 of the Tamil Nadu Motor Vehicle Rules, the application for renewal of permit has to be re-submitted after rectifying the defects within a period of seven days. But the petitioner has submitted the application only after two years and ten months. Also, it is the duty of the petitioner to obtain No Objection Certificate from the financier while making application for renewal of permit. Hence, there is no error in the order of the Tribunal and the Writ Petition is not maintainable.

6. It is seen that the petitioner has applied for renewal of permit on 23.5.2006, but the said application was returned to the petitioner for complying certain defects. The said application was directed to be re-submitted within a period of seven days. But the petitioner has not re-submitted the said application within the prescribed time on the ground that the financier has not issued the No Objection Certificate within a stipulated time.

7. As per Rule 166 of the Tamil Nadu Motor Vehicles Rules, 1989, the petitioner has to re-submit the application for renewal of permit within a period of seven days. Section 51(9) of the Tamil Nadu Motor Vehicles Act contemplates grant of renewal of permit even if the financier refuses to grant the No Objection Certificate.

8. On a reading of the above provisions, it is clear that even if the financier refuses to issue the No Objection Certificate, the Regional Transport Authority has the power to renew or refuse the permit after giving an opportunity of being heard. Hence, it is the duty of the petitioner to re-submit the application within a period of seven days. Since the statutory authorities are governed by the Rules, which provides for certain period and particular mode for renewal of permit, the plea of the petitioner that the Authorities failed to consider the request of the petitioner cannot be accepted. The petitioner has not raised any plea of arbitrariness or violation of principles of natural justice.

9. In the light of the above, no ground is made out to quash the impugned order of the Tribunal. The Tribunal is justified in declining to entertain the appeal. Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently, M.P.No.2 of 2010 is also dismissed.