

(2005) 07 MAD CK 0060

In the Madras High Court

Case No : W.A. No's. 1417 and 1418 of 2005

Senthilnayagam

APPELLANT

Vs

M. Paul Jayaraj and Others

RESPONDENT

Date of Decision : 27-07-2005

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1988 — Section 89, 90

Citation : (2005) 4 ACC 244 : (2005) WritLR 816

Hon'ble Judges : Markandey Katju, C.J;F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : M. Palani, for the Appellant; AR. L. Sundaresan, for respondent 1 and V. Raghupathy, Govt. Pleader for respondents 2 to 5, for the Respondent

Judgement

F.M. Ibrahim Kalifulla, J.—By the order impugned in these writ appeals, the learned Judge has set aside the grant made in favour of the

appellant herein to ply a mini bus by holding that there were certain serious violations in the matter of consideration of various applications for grant

of mini bus permit for the route Thudiyalur to Madathur via Vadamadurai.

2. In this context, this Court has repeatedly held that under the provisions of the Motor Vehicles Act, 1988 (hereinafter referred to as the "Act"),

there is an alternative statutory remedy of appeal/ revision u/s 89/90 of the Act to approach the State Transport Appellate Tribunal to challenge the

order of grant made by the Regional Transport Authority in favour of the parties. The writ petitioner/ first respondent's application for grant of mini

bus permit also came to be rejected by the Regional Transport Authority by order dated 21.1.2005, as against which, a writ petition, being W.P.

No. 3956 of 2005 came to be filed and the same was disposed of by the common

order impugned in these writ appeals. Having regard to the settled legal position that an effective alternative remedy is available to the first respondent to approach the State Transport Appellate Authority by filing an appeal or a revision u/s 89/90 of the Act, we are of the confirmed view that the order impugned in these writ appeals cannot be sustained.

The above legal position is clearly set out in the decision of a Division Bench of this Court in *Tamil Nadu State Transport Corporation v. C. Durai*

and Anr. 2005 W.L.R. 136 which has followed the Supreme Court decision in *U.P. State Bridge Corporation Ltd. v. U.P. Rajya Setu Nigam*

Karmchari Sangh (1998) 4 SCC 268. Following the same, the writ appeals stand allowed.

3. Learned counsel for the first respondent then contended that the writ petition having been entertained and allowed by the learned single Judge,

this Court should not interfere with the said order of the learned single Judge at this stage on the ground of alternative remedy.

4. In this context, we are inclined to follow the decision of the Honourable Supreme Court in *S. Jagadeesan Vs. Ayya Nadar Janaki Ammal*

College and Another, wherein the Honourable Supreme Court has held that even if the High Court has allowed the writ petition such orders can be

set aside and the writ petition dismissed where it is found that appropriate alternative remedy was available to the parties concerned. A similar view

was taken by the Supreme Court in *U.P. State Bridge Corporation Ltd. v. U.P. Rajya Setu Nigam Karmchari Singh* 2005 AIR SCW 3149 (vide para 11).

5. Though the learned counsel for the first respondent seeks to place reliance upon the decision in *Harbanslal Sahnia and Anr. v. Indian Oil*

Corporation Ltd. and Ors. 2003 (1) CTC 189 having regard to the definite legal position that the writ petitioner/first respondent has got the

alternative remedy of appeal/revision, we are not inclined to exercise our discretion under Article 226 of the Constitution to entertain the writ

petition, and the writ appeals therefore stand allowed. Inasmuch as we have held that the first respondent can work out his remedy by filing the

necessary appeal/revision before the State Transport Appellate Authority u/s 89/90 of the Act, while allowing the writ appeals and setting aside the

order of the learned single Judge, we give 30 days time to the first respondent

herein to file the necessary appeal against the orders impugned in the writ petitions, and if he does so the appeal shall not be dismissed on the ground of limitation but shall be decided on merits. If the first respondent fails to avail the time granted in this order for filing the appeal/revision within 30 days from today, the benefit granted in this judgment shall stand automatically revoked. The Registry is directed to return the certified copies of the orders of the Regional Transport Authority to enable the first respondent to file the statutory appeal/ revision. No costs. W.A.M.P. Nos. 2644 and 2645 of 2005 are closed.