

(1969) 02 MAD CK 0035
In the Madras High Court

Tirumurthi Transports (P.) Ltd.

APPELLANT

Vs

The Regional Transport Authority

RESPONDENT

Date of Decision : 24-02-1969

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1969) 82 LW 545 : (1970) 1 MLJ 14

Hon'ble Judges : M.M. Ismail, J

Bench : Single Bench

Judgement

M.M. Ismail, J.—This is a petition under Article 226 of the Constitution of India, for quashing certain proceedings of the Regional Transport

Authority, Coimbatore, dated nth June, 1958. These proceedings related to the proposal to open a new route as Udumalpet to Coimbatore via

Poolankinar, Erishnampatti, Challappambalayam, Thondamathur, Somathur, Pollachi and Kinathukadavu and to fix the number of buses to be

introduced on that route. The Regional Transport Authority approved the proposal and fixed the number of bus as one. The petitioner admits in

paragraph 7 of the affidavit filed in support of this petition that an appeal is available against the said order to the State Transport Appellate

Tribunal, but he had not filed the appeal because prior to this, the petitioner has not preferred any appeal against Section 47(3) orders and as such

he was not aware of the limitation. The substance of this plea is one of ignorance of law as justifying his not filing an appeal and coming to this

Court straightway. Even here, the writ petition is supported by an application for excusing a delay of 60 days. Under these circumstances, the

question for consideration is whether I should in the exercise of my discretion, admit this writ petition overlooking the fact that the petitioner had

not availed himself of the alternative remedy of filing an appeal and has filed this petition 60 days beyond time.

2. I am of the opinion that in such matters where the statutory authority passes an order in relation to a matter exclusively committed to its

jurisdiction, the remedy provided for by that statute must be pursued and the fact that a particular person has not availed himself of that remedy

and allowed the same to be barred by limitation is no ground or justification for allowing him to approach this Court under Article 226 of the

Constitution of India. So also, in relation to the delay of 60 days I am of the opinion that in matters like this, where a person complains against any

order of the Transport Authority, he must come to the Court with the utmost promptitude. His only grievance, shorn of legal technicalities, is that if

another bus is put on the route, the petitioner will lose a part of the profits which he is earning by virtue of competition; on the other hand, the

object of the authority is to provide additional transport facilities to the travelling public or to provide new transport facility where there is none. If

that be the case, in the light of such rival considerations, a person who feels aggrieved by the order of the Transport Authority should come to this

Court with the utmost promptitude for the protection of his interest which is purely individual and peculiar to him, as against the public interest

sought to be served by the order of the authority.

3. Under these circumstances, in the exercise of my discretion, I decline to admit this writ petition both on the ground that the petitioner has not

availed himself of the alternative remedy available to him and on the ground that there is delay in approaching this Court. Hence this petition is

dismissed.