courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 10/09/2026

(1997) 12 MAD CK 0044

In the Madras High Court

U. Mohideen Pitchai — APPELLANT

Vs

The Regional Transport Officer — RESPONDENT

Date of Decision : 08-12-1997

Acts Referred:

Citation : (1998) 1 MLJ 456

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Judgement

S.S. Subramani, J.—Petitioner seeks the issuance of a writ of certiorarified mandamus or any other appropriate writ, order or direction in

the nature of a writ, calling for the records relating to the order of the Regional Transport Officer, Tirunelveli, in R. No. 22196/B4/97, dated

24.7.1997 and to quash the same and also to direct the respondent herein to accept the surrender of the permit of the petitioner made on

22.5.1997.

2. In the affidavit filed in support of the writ petition, it is said that he is the owner of the goods vehicle TN-72/z 680. He applied before the

Regional Trans-port Officer, Tirunelveli, for the grant of a National permit in respect of this vehicle to operate of Kerala, Andhra Pradesh,

Karnataka, Pondicherry and Maharashtra States. The application was filed in the year 1994, and the permit was issued by the R.T.O., Tirunelveli,

for a period of five years valid upto 5.1.1999. The issue of the national permit is governed by the Central Motor Vehicles Rules, 1989, It is said

that any state can issue the composite states without getting counter signature from the State Transport Authority of the respective composite

states. It is further said that even though the permit will be valid for a period of

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/u-mohideen-pitchai-appellant-hash-…

five years,"" the authorisation will be valid only for a period of one

year and the authorisation will have to be renewed by the primary authority at intervals of one year each. The permit holder has got his own choice

either to have the authorisation re-newed for the same composite states or to prefer to have fresh set of composite states seeking authorisation.

The composite fee for each State has been fixed by an agreement entered into within the States and the Union Government and at the time of

application for the authorisation for composite states, the composite fee should be filed in form of Demand Draft. It is said that as per condition

No. 48 incorporated in the case of National permits under Central Motor vehicles Rules, if the authorisation not for re-newed immediately after

one year period, the permit will cease to be a National permit and the holder of the permit cannot operate the vehicle in any state outside the

primary state until and unless fresh authorisation for the composite States is obtained from the Primary Authority by remitting the composite fee and

by filing the application in respect the prescribed form indicating the composite States. It is said that the authorisation of the petitioner which is valid

only for one year expired on 5.1.1995 and he did not apply for beyond that period. He confined his operation of the vehicle within Tamilnadu. the

vehicles was not found plying-by the Authority in any of the Composite states. While so, the vehicle met with an accident and was damaged on

12.11.1995. Petitioner had paid the tax due to Tamil Nadu for the period upto 30.6.1997. After repair, petitioner resumed service in Tamil Nadu

after a period of six months, with the fitness certificate renewed in April, 1996. Due to the condition and age of the vehicle, petitioner thought of

disposing the same, end, on 22.5.1997, petitioner surrendered the permit before the Secretary, Regional Transport Authority, Tirunelveli. He also

made an application in the prescribed form and intimated that the tax due to the Tamil Nadu has been paid in respect of the vehicle and surrender

of the permit may be accepted. Since no orders were passed even after months, tax due for the subsequent quarter also became due. Petitioner

paid for the period commencing from 1.7.1977, produced the Demand Draft towards payment of tax, but the same was refused by the respondent

office stating that the petition has to remit the composite tax for the other states upto date with penalty and then only the surrender of the permit will

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/u-mohideen-pitchai-appellant-hash-…

be accepted and for Tamil Nadu for the period commencing from 1.7.1997 will also not be accepted. Therefore the petitioner sent a demand draft

towards tax for Tamil Nadu for the period commencing from 1.7.1997 by registered post on 6.8.1997. It is said that simultaneously, the

respondent also issued a demand-cum-show cause notice in R. No. 22196/B4/97, dated 24.7.1997 totalling a sum of Rs. 72,000 as due payable

by the petitioner. In that order, it is said that the said amount is due towards composite feecum-tax to the States of Kerala, Andhra Pradesh

Karnataka, Maharashtra and Pondicherry, with penalty. Petitioner seeks to quash the said order on various grounds. In the grounds it is said that

after the period of authorisation the vehicle cannot be used in the other states except the primary state and no-body has a case that this vehicle was

found in any of the composite states. When there is no authorisation, and when the vehicle could not be used in the Composite States making a

demand as tax due for the Composite states is one without jurisdiction. It is on these grounds, the writ petition was filed.

3. When the writ petition came for a admission, the learned Additional Government Pleader took notice, and the case was posted for counter.

though no counter was filed, he argued the matter on Instructions.

4. Learned Counsel for petitioner submitted that this case is covered by an earlier decision of this Court reported in Palaniyappan v. The Regional

Transport Officer, Madras North (1995) 2 M.L.J. 206, wherein Jayasimha Babu, J, has held thus:

Though the object of leaving authorisation fee appears to be merely to ensure collection of additional revenue to the state concerned by way of

collecting authorisation fee even after the permit has been issued, nevertheless, the validity of the permit is made subject to the authorisation being

obtained and this authorisation has to be obtained at intervals of not more than one year. Condition 48 incorporated in the permit also shows that

the National permit itself shall cease to be valid un-less the vehicle is covered by a valid authorisation issued by the competent authority. If the

permit ceased to be valid, on account of the holder of the permit not applying for authorisation, the vehicle in respect of which the permit has been

issued cannot be used in the other states. If the vehicle is not authorised for use in the other states and is not kept for use in any of those states, the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/u-mohideen-pitchai-appellant-hash-…

need for collecting tax payable to the other states mentioned in the permit does not arise. It, has, therefore, to be held that the petitioner is not liable

to pay composite tax for the period subsequent to 1.4.1990 in view of the fact that the vehicle was not covered by a valid authorisation.

In view of the settled legal position, let us consider the facts in this case. Even though the vehicles had a valid permit for a period of five year upto

6.1.1999, admittedly, the authorisation expired on 5.1.1996. Petitioner did not apply for renewal of authorisation, and the vehicles was also kept in

the workshop for effecting repairs due to the accident, from November 95 After 5.1.1995, none of the composite States has found the vehicle

found plying any where in their States, nor was it used in these States. It the vehicle could not be used in the composite States, there is no question

of demanding tax for those states or for payment of composite fee. Naturally, the demand made by the respondent towards tax and composite fee

with penalty, for the States of Kerala, Andhra Pradesh Karnataka, Maharashtra and Pondicherry, is one without jurisdiction, and it is declared that

the petitioner is not liable to pay the amount as demanded. The show-cause notice issued by the respondent is one without jurisdiction and,

therefore, it is pushed...

5. Once I hope that notice dated 24.7.1997 issued by the respondent is without jurisdiction, naturally, the respondents are bound to pass orders

on the application of the petitioner to accept the surrender of the permit which he has made on 22.5.1997. The respondent is directed to pass final

order in the said application within two weeks from the date of production of copy of this order. Consequently, the writ petition is allowed as

indicated above, however, without any order as to costs.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/u-mohideen-pitchai-appellant-hash-…