

Madras High Court

Pandian Roadways Corporation ... vs Thiru R.M. Somasundaram And ... on 26 February, 1990

Equivalent citations: AIR 1991 Mad 305

Bench: Bakthavatsalam

ORDER

1. When the miscellaneous petition came up for hearing the main writ petition itself has been taken up for disposal. The prayer in the writ petition is :--

"..... to issue a Writ of Mandamus or any other writ, order or direction in the nature of writ forbearing the 2nd respondent from convening the timing conference and passing orders thereon in favour of the first respondent's stage carriage TNT 1793 (since replaced by TDR 3993) plying on the route Madurai -- Kallupatti pursuant to the hearing notice made in R. No. 79074/A3/85 signed on 6-1-1990....."

2. The petitioner, a State owned Corporation objects to the convening of timing conference in favour of the first respondent's carriage TNT 1793 plying on the route Madurai to Kallupatti pursuant to the hearing notice made in R. No. 79074/A43/85 signed on 6-1-1990.

3. It is stated in the affidavit that the route of the first respondent overlaps on the approved scheme route Madurai to Papa-nasam published under S. 68D of the Tamil Nadu Government Gazette dated 10-9-1975 and the name of the 1st respondent is not found in Annexure-II to the Approval Scheme. In such circumstances, the 1st respondent has no jurisdiction to operate on any part of the approved scheme route as law laid down by the Supreme Court in Pandiyan Roadways Corpn. Ltd. v. Thiru M. A. Egappan and as such the authority has no jurisdiction to regularise the stage carriage service of the 1st respondent on the approved scheme route and that therefore the proposed hearing of the 2nd respondent to regularise the service of the stage carriage of the 1st respondent is totally without jurisdiction. The other point taken is that application for fixation of timings is made by the 1st, respondent under the repealed Act and the same was notified under the repealed Act as required under S. 57(3) of that Act and the same has not been saved under the savings and repealing clause of the Motor Vehicles Act, 1988.

4. After hearing learned counsel for the petitioner I do not think that this is a matter in which this Court can therefore at this stage. Mr. S. Parthasarathy, taking notice on behalf of the 1st respondent, brings to my notice that the Regional Transport Authority passed an order in favour of the 1st respondent on his application, against which the petitioner Corporation preferred an appeal to the Tribunal and subsequently the same was withdrawn. I do not see any whisper about this fact in the affidavit filed in support of the petition. Considering the facts and circumstances of the case and on the ground that the petitioner has come to this Court suppressing the material facts, I am not inclined to entertain this writ petition. As a public Corporation it is the bounden duty of the Corporation to disclose all the facts before this Court in the affidavit filed. Unfortunately it has not been done. It is highly unfortunate that a public Corporation should come before this Court and fight like a private individual suppressing material facts. If an affidavit is filed before this Court all facts should be narrated with regard to the question in issue. Even this fundamental principle has

not been followed by the corporation. As such I am not inclined to entertain this writ petition on the simple ground of suppression of material facts.

5. Further, all the objections taken by the petitioner can be taken over before the authorities. As such I see no reason to entertain this writ petition at this stage. The writ petition is dismissed. No costs.

6. Petition dismissed.