

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 28.02.2026

Order pronounced on : 06.02.2026

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THE HONOURABLE MR JUSTICE P.B. BALAJICRP.Nos.150 & 151 of 2022& CMP.Nos.825 & 826 of 2022 & 7898 of 2024

N.Natarajan

... Petitioner in CRP.No.150 of 2022

M.Krishnamoorthy

... Petitioner in CRP.No.151 of 2022

Vs.

1.The Regional Transport Authority,
Dharmapuri District,
Dharmapuri.

2.The Secretary,
Regional Transport Authority,
Dharmapuri District,
Dharmapuri.

3.The Managing Director,
Tamil Nadu State Transport Corporation,
(Salem) Limited,
Dharmapuri Region,
Dharmapuri.

... Respondents in both CRPs

Common prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order of the State Transport Appellate Tribunal, Chennai, in M.V.App.Nos.23 & 24 of 2020 dated 20.12.2021,



confirming the order of the 1st respondent in R.No.A3/40134/2016 dated 27.02.2020 and grant the variation as applied for.

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For Petitioner : Mr.M.Palani in both CRPs

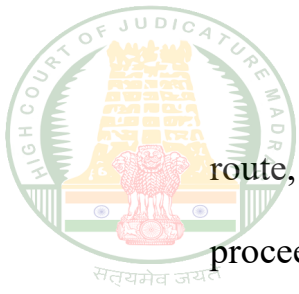
For Respondents : Mr.V.Ramesh
Government Advocate for RR1 & 2
Mr.K.Kathiresan for R3 in both CRPs

COMMON ORDER

The revision petitioners are bus service operators, who seek to set aside the order of the State Transport Appellate Tribunal, Chennai, in M.V.App.Nos.23 & 24 of 2020, respectively, confirming the order of the Regional Transport Authority, Dharmapuri, dated 27.02.2020.

2.I have heard Mr.M.Palani, learned counsel for the revision petitioners and Mr.V.Ramesh, learned Government Advocate for the respondents 1 and 2 and Mr.K.Kathiresan, learned counsel for the 3rd respondent in both the revision petitions.

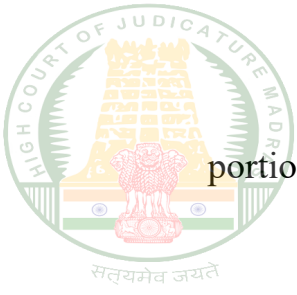
3.Mr.M.Palani, learned counsel for the petitioners would state that the petitioners admittedly hold valid permits to ply between Dharmapuri and Attipalli (CRP.No.150 of 2022) and Salem and Krishnagiri (CRP.No.151 of 2022). The petitioners have applied for additional singles in the existing



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route, which has been denied by the Regional Transport Authority, by proceedings held on 19-12-1989, citing the reasons that the route is already over-saturated. The petitioners have applied for additional singles in the existing route, which has been denied by the Regional Transport Authority by proceedings held on 19-12-1989, citing Rule 4(4) of the Motor Vehicles (Special Provisions) Rules, 1995, which provides for variation of conditions of permit, which is to be sought for by way of an application in the prescribed form to the Regional State Transport Authority or the State Transport Authority, accompanied by a prescribed fee. Sub-rules 2 and 3 deal with the manner in which such application has to be dealt with by the State Transport Authority or the Regional Transport Authority as the case may be. Sub-rule 4 empowers the authority, after recording reasons, to either grant or refuse variation, sought for. The first proviso deals with the variation being limited to a distance not exceeding 24 kilometers.

4.The learned counsel for the revision petitioners would therefore state that in the case of the petitioners, the proviso limiting the distance to 24 kilometers will not even apply in the first place, as according to learned counsel, Section 6(2) of Act 41 of 1992 permits the transport authority to enable a small operator to seek for varying conditions of a permit for stage carriage, so as to enable the applicant to operate on the entire route or any

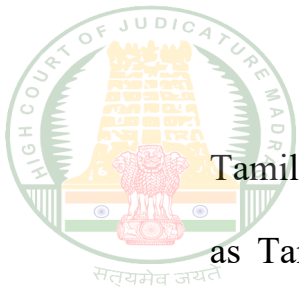


portion of the route covered by such approved scheme.

WEB COPY 5.Relying on the above provision, Mr.M.Palani, learned counsel contends that admittedly, when the petitioners are having valid permits, they are well within the right to seek variance and it is not a case falling under Section 6(4), which deals with only new permits not being granted to any person, on any route already covered by an approved scheme. In support of the submissions, Mr.M.Palani has relied on the decisions of this Court rendered in the context of Tamil Nadu Act 41 of 1992, which supports the petitioners case, reported in *M/s.Easy Ride Transports vs The Regional Transport Authority, Tiruppur*, in *CRP(NPD).No.3134 of 2023* and *K.Vaiapuri vs The Regional Transport Authority, Namakkal District*, reported in *2012 (5) CTC 729* and *Kirloskar Ferrous Industries Limited vs Union of India and others*, reported in *2025 (1) SCC 695*.

6.The learned counsel for the petitioners therefore state that the authorities, as well as the Tribunal have committed an error in falling back on the ratio laid down by the Constitution Bench, without noticing that the said decision was only answering a conflict between *Jayaraman's case* and *M.A.Egappan case's*. To neutralize *M.A.Egappan's case*, a special legislation was passed by the State of Tamilnadu in the year 1992, known as

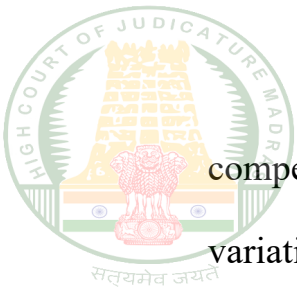
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Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992, which is known as Tamil Nadu Act 41 of 1992. It is contended by Mr.M.Palani, learned counsel that when the Act had been brought about by the State of Tamil Nadu only to get over the decision in *M.A.Egappan's case*, the judgment of the Honourable Supreme Court cannot be applied to the facts of the present case, to non-suit the petitioners.

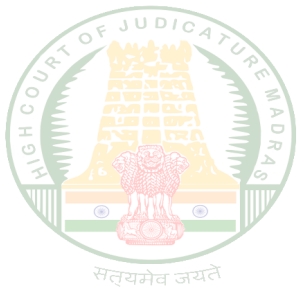
7.Per contra, Mr.V.Ramesh, learned Government Advocate appearing for the respondents 1 and 2 would contend that while disposing of the civil appeals, the Regular Bench had specifically directed the Regional Transport Authority to take into account the decision of the Constitution Bench and therefore, it is his submission that there is no error or infirmity in the orders passed, warranting interference in the revision. He would further state that the grant of variation is under Section 57(8) of the Motor Vehicles Act, 1988, and it is amounting to grant of a new permit, which is impermissible, when there is an approved scheme in force.

8.Referring to Section 80(3) of the Motor Vehicles Act, the learned Government Advocate would contend that when the routes are well served by not only the State Transport Corporation buses, but also private buses, any further variation would not only be unnecessary, but also create unhealthy



competition and even from this angle, the rejection of the request for variation does not call for interference. He would also state that admittedly the variation, that is sought for by the petitioners in both the revisions, exceeds 24 kilometers, which is again prohibited under the rules and in such circumstances, the well considered findings of the Regional Transport Authority and confirmed by the Tribunal are certainly in order. He would therefore pray for dismissal of the revision petitions.

9.Mr.K.Kathiresan, learned counsel appearing for the 3rd respondent, apart from adopting the submissions of Mr.V.Ramesh, learned Government Advocate, would contend that the petitioners have been enjoying the permit only based on interim directions and they did not even apply when a new scheme was formulated in the year 1995. He would further state that the application for grant of two singles amounted to variation and was clearly barred by the provisions of the Act. He would further contend that the authority, as well as the Tribunal have taken into account the fact that the grant of variation would result in unhealthy competition, besides causing monetary loss to the Government as well. He would also point out that there was not even any public demand for varying the permits, in order for the authority to favorably consider the request of the petitioners. He would also pray for dismissal of the revision petitions.

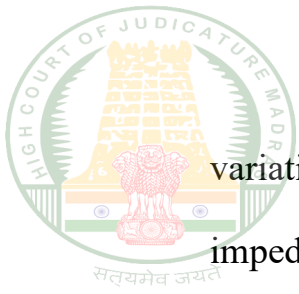


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10.I have carefully considered the submissions advanced by the learned counsel for the parties. I have also gone through the records filed by way of common typed set of papers, as well as the decisions on which reliance has been placed on by the learned counsel for the petitioners.

11.There are two points that arise for consideration in these revision petitions. Firstly, whether the ratio in *M.A.Egappan's case* having been approved by the Constitution Bench of the Honorable Supreme Court would come in the way of the petitioners seeking variation. Secondly, whether the distance factor, namely a gap of 24 kilometers would apply to the case of the petitioners.

12.It is admitted all around that the petitioners have valid permits from Dharmapuri to Attipalli in the case of CRP.No.150 of 2022 and from Salem to Krishnagiri in the case of CRP.No.151 of 2022 and they had sought for grant of additional singles in the existing route. It is also not denied by the petitioners that the distance in respect of which the variation is sought for is certainly over 24 kilometers, 52 kilometers in the case of CRP.No.150 of 2022 and 112 kilometers in the case of CRP.No.151 of 2022. It is however the contention of the petitioners that for the grant of

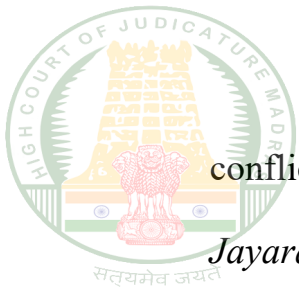


variation on the existing route, the distance factor will not be an impediment. It is in this regard that the relevant provisions of the Act and Rules have been brought to my notice.

13.The Honorable Supreme Court in *Pandian Roadways Corporation Limited vs M.A.Egappan*, reported in 1987 (2) SCC 47, categorically held that no person, other than those who have been mentioned in Annexure-II of the approved scheme, can be permitted to operate a stage carrier service, of course, apart from the State Transport undertaking. This decision was working hardships to the State Government. Therefore, the State of Tamil Nadu introduced a bill in L.A Bill.No.38 of 1992 to make special provisions in respect of permits for stage carriages in relation to schemes and routes notified under Chapter VI of the Motor Vehicles Act, 1988. The Bill was approved and Act 41 of 1992 came into effect with the assent of the President given on 31-07-1992.

14.In fact, Section 1(3) gave retrospective effect to the provisions of the Act, excepting Sections 6 and 7, coming to force from 04-06-1976 and in respect of Section 6, the Act was deemed to come into force on 01-07-1990. The Bill, which later blossomed into the Act was introduced and enacted clearly with the purpose to avoid the impact of the decision of the Honourable Supreme Court in *M.A.Egappan's case*. In the mean time, a

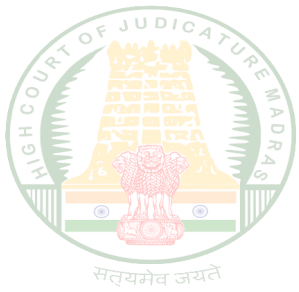
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conflicting view was taken by the Honourable Supreme Court in *Jayaraman's case* and therefore, the issue was referred to the Constitution Bench and in *G.T.Venkataswamy Reddy's case*, the Honourable Supreme Court held that *Jayaraman's case* was not good law and approved of *M.A.Egappan's case*.

15.It is however to be noticed that even during the hearing of the reference before the Constitution Bench, the Constitution Bench was informed about Act 41 of 1992 and the Regular Bench post reference was directed to individually deal with the peculiar facts of each case. After the decision of the Constitution Bench, the Regular Bench of the Honourable Supreme Court passed an order of remand, with a further direction to the authority to not only consider the impact of the decision of the Constitution Bench judgment, but also Act 41 of 1992 and rules thereunder. It is this order, which is now taken advantage of by the learned counsel for the respondents to contend that when the Honourable Supreme Court has specifically directed the authority to consider the decision of the Constitution Bench, the authority cannot be found fault with for falling back on the ratio laid down by the Constitution Bench, to reject the request for variation. I am unable to countenance the said line of arguments advanced by the learned counsel for the respondents.

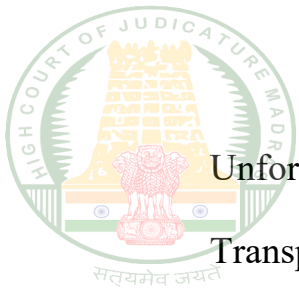
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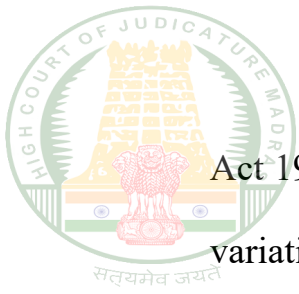
16.The Regular Bench of the Honourable Supreme Court, post decision rendered by the Constitution Bench, found that the High Court had only remitted the matter for fresh consideration to the authority and directed the authority to not only take note of the decision of the Constitution Bench, but also Act 41 of 1992. If the constitution bench decision was even applying to the facts of the case of the petitioners, rather their predecessors in interest, then the Honourable Supreme Court would not upheld the order of remand. The Hon'ble Supreme Court need not have even upheld the order of remand passed by this Court and instead the Honourable Supreme Court could have straight away applied the ratio in *M.A.Egappan's case*, approved by the Constitution Bench and dismissed the civil appeals preferred by the predecessors in interests of the revision petitioners. Therefore, merely because the Honorable Supreme Court has directed the authority to consider the decision of the Constitution Bench judgment does not imply that the authority and the Tribunal are bound to apply the ratio laid down by the Constitution Bench.

17.The true import of the directions issued by the Honorable Supreme Court is only to see whether the decision of the Constitutional Bench would apply to non-suit the revision petitioners in the light of Act 41 of 1992.



Unfortunately, this exercise has not been undertaken by both the Regional Transport Authority, as well as the Tribunal. As already discussed, the very legislation, namely Act 41 of 1992 was brought about to only avoid giving effect to the decision of the Honorable Supreme Court in *M.A.Egappan's case* and therefore, the Authority, as well as the Tribunal clearly fell in error in applying the ratio in *M.A.Egappan's case*, as approved by the Constitutional Bench to the facts of the present cases.

18.The Authority, as well as the Tribunal erred in noticing that with Act 41 of 1992 coming into force, the ratio laid down in *M.A.Egappan's case* and approved by the Constitutional Bench would literally have no impact or effect on the request of the petitioners for variation, which is permissible under Act 41 of 1992 and relevant rules framed thereunder. In fact, this Court in *M/s.Easy Ride Transport's case*, noticed that any reference to Section 80(3) of the Motor Vehicles Act would be of no avail, since special legislation has been enacted by the State and under the same, Section 6(2) empowers the Transport Authority to vary the conditions of permit of a small operator in accordance with the rules. This Court also found that the Constitutional Bench judgment in *G.T.Venkataswamy case* did not deal with Act 41 of 1992 and rejected the argument of the State that an application for variation of permit has to be dealt with only in terms of the Motor Vehicles



Act 1988 and rules framed thereunder. This Court also found that the bar on variation of distance of more than 24 kilometers is not absolute, unlike Section 80(3) and permitholders to whom Act 41 of 1992 operates or applies, are entitled to seek variation under the special legislation, namely Act 41 of 1992.

19. In *Vaiapuri's case*, this Court discussing the scope of explanation in a rule or section, relying on the decision of the Honourable Supreme Court in *Hardev Motor Transport vs state of M.P.*, reported in 2006 (8) SCC 613, held that the explanation was inserted only for the purpose of giving more clarity to the concept of variation and merely because the explanation was omitted, it cannot be said that the authority has become powerless to consider the application for variation and as long as Section 6(2) of the Act and Rule 4 were in the statute book, the Regional Transport Authority could always consider an application for variation.

20. In *Kirloskar's case*, the Honourable Supreme Court again dealing with the purport of an explanation held that an explanation cannot widen the ambit of Section or enlarge the scope of the original Section that it is supposed to explain and that the proper function of an explanation is to make plain or elucidate what is enacted in the substantive provision and not



to add or subtract from it. In the light of the above decisions, it is clear that the power to grant variation was very much within the jurisdiction of the Regional Transport Authority and the decision of the Constitution Bench approving the ratio in *M.A.Egappan's case* will not come in the way of the authority to consider and grant the variation.

21. Now, coming to the question of distance, namely, a cap of 24 kilometres, Section 6(2) of Act 41 of 1992, in fact, starts with the phrase "*... Notwithstanding anything contained in the Motor Vehicles Act or in an approved scheme, the Regional Transport Authority may, on an application made by the small operator in accordance with the rules made in this behalf and subject to such conditions as may be prescribed, vary the conditions of a permit for a stage carriage so as to enable the applicant to operate on the entire route or any portion of the route covered by such approved scheme....*". Therefore the very provision is an exception to not only the Motor Vehicles Act itself, but also any approved scheme that may be in place. Section 6(2) permits small operators to apply in accordance with the rules for varying the conditions of permit for a stage carrier to enable them to operate on the entire route or any portion of the route covered by such approved scheme.



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22.The Tamil Nadu Motor Vehicles (Special Provisions) Rules, 1995 were notified on 18th May 1995. Rule 4 deals with variation of conditions of permit. Sub-rule (4) confers the power on the authority concerned to grant or refuse variation as sought for in the application by the small operators. The first proviso to sub-rule (4) of rule 4 provides that in the case of variation, the distance covered by such variation shall not exceed 24 kilometres. Therefore, the true import of this provision is that the authority can grant variation subject to maximum distance of 24 kilometres. Rule 4 was amended by the government by G.O.Ms.No.1935 dated 29-12-1995, in and by which, an explanation was added. However, by subsequent G.O., the explanation was omitted in entirety. I find force in the submissions of Mr.M.Palani, learned counsel for the petitioners that the cap of 24 kilometres would not apply to the case of the petitioners, as the proviso is intended only to cases of extension of permit.

23.Here, admittedly, the petitioners are not seeking extension of the permit, but only grant of singles within the existing permit. Therefore, there is no reason why the petitioners should be disentitled from seeking variation and the authority, as well as the Tribunal have erroneously invoked the proviso, capping the distance of 24 kilometres to deny the variation request sought for by the petitioners. Therefore, in my considered opinion, the first proviso to rule 4 sub rule (4) of Tamil Nadu Motor Vehicle (Special



Provisions) Rules, 1995, stipulating a distance of 24 kilometres being covered by variation would apply only to an applicant, who is seeking extension of the permit involving additional termini and not to applicants, who are only seeking to increase the number of trips within the already permissible route. Therefore, the first proviso is certainly not applicable to the case on hand. For all the foregoing reasons, the petitioners are entitled to succeed and neither the decision in M.A.Egappan's case, nor the decision of the Constitution Bench, will affect the entitlement of the petitioners to seek variation. Having also found that the petitioners are not seeking for any extension or inclusion of additional termini by way of variation, the petitioners cannot be non-suited, even citing first proviso to sub rule (4) of the rules.

24.In fine, the Civil Revision Petitions are allowed and the order of the State Transport Appellate Tribunal, Chennai, in M.V.App.Nos.23 & 24 of 2020 dated 20.12.2021, confirming the order of the 1st respondent in R.No.A3/40134/2016 dated 27.02.2020 are set aside. The the Regional Transport Authority, Dharmapuri, is directed to approve the variation applications of the petitioners, within a period of four weeks, from the date of receipt of a copy of this order. There shall be no order as to costs. Connected Civil Miscellaneous Petitions are closed.



06.02.2026

Neutral Citation: Yes

Speaking Order

Index : Yes

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To

1.The Regional Transport Authority,
Dharmapuri District, Dharmapuri.

2.The Secretary,
Regional Transport Authority,
Dharmapuri District, Dharmapuri.

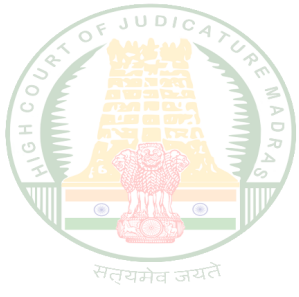
3.The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Limited,
Dharmapuri Region, Dharmapuri.

4.The State Transport Appellate Tribunal, Chennai.

P.B. BALAJI, J.

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Pre-delivery order made in



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& CMP.Nos.825 & 826 of 2022 & 7898 of 2024

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