
(2022) 09 TEL CK 0048

High Court For The State Of Telangana:: At Hyderabad

Case No: Writ Petition No. 40000 Of 2014

M/S. Sri Gayatri
Educational Society,
R.R. Dist.

APPELLANT

Vs

PRL. Secy., Transport
2 Ors

RESPONDENT

Date of Decision: Sept. 14, 2022

Acts Referred:

- Constitution Of India, 1950 - Article 226, 300A

Hon'ble Judges: Ujjal Bhuyan, CJ; C.V.Bhaskar Reddy, J

Bench: Division Bench

Advocate: B Sivaramakrishnaiah

Final Decision: Dismissed

Judgement

1. This writ petition is filed, under Article 226 of the Constitution of India, seeking to issue a Writ of Mandamus declaring the impugned notice in

R.No.AP103/April2013/1013 dated 27.11.2014 issued by respondent No.2 (served on 19.12.2014) demanding the petitioner to pay difference of tax of

Rs.98,000/- in respect of vehicle bearing No.AP 28 TA 8108 as illegal, arbitrary and contrary to law and to set aside the same.

2. The case of the petitioner educational society is that it is the owner of a vehicle bearing No.AP 28 TA 8108, it obtained permit No.AP

128/2410/EIP/2011 valid up to 28.06.2016 to carry school children and staff and it has been paying the tax regularly. However, by mistake, the

petitioner has not paid tax for the quarters ending with 31.12.2012 and 31.03.2013 and the college students were taken to educational tour to Tirupati.

While the vehicle was proceeding to Tirupati, a check was exercised by respondent No.3 vide Vehicle Check Report dated 17.04.2013 and the vehicle

was seized on the ground that permit, R.C.Book, Insurance Certificate, Fitness Certificate, Driving Licence and proof of payment of tax were not

produced, even though the same were produced at the time of check. Questioning the seizure, the petitioner filed W.P.No.14807 of 2013 before this

Court and this Court by order dated 15.05.2013 has directed respondent No.2 to release the vehicle subject to certain conditions. Accordingly, the

vehicle was released after complying with the conditions.

3. Further, it is the case of the petitioner that respondent No.2 issued a show cause notice dated 28.05.2013 asking the petitioner to pay difference of

tax of Rs.98,000/- and to submit explanation. But, the petitioner could not submit explanation, as the Manager, who was looking after the transport

operations of the vehicles, has left the institution without intimating about the said show cause notice. Treating there is no explanation, Respondent

No.2 issued the impugned demand notice dated 27.11.2014 directing to pay difference of tax of Rs.98,000/- within ten days. As such, the impugned

notice amounts to gross violation of principles of natural justice, as the respondents have not provided an opportunity of hearing and therefore, prayed

for setting aside the same.

4. A counter affidavit has been filed by responded No.2 stating that the vehicle is registered in the name of petitioner educational institution and a

permit was obtained to transport students and staff within twin cities and Ranga Reddy District. However, during the check, it was found that the

vehicle was plying as contract carriage contrary to the permit conditions and the relevant documents were not produced. It was also found that tax

was not paid for the period from 01.10.2012 till the date of check. As such, the demand raised by the respondent authorities is strictly in accordance

with the Andhra Pradesh Motor Vehicles Taxation Rules, 1963 and the impugned notice does not suffer from any infirmity warranting interference of

this Court under Article 226 of the Constitution of India and prays for dismissal of the writ petition.

5. Heard the submissions of Mr. B. Siva Rama Krishnaiah, learned counsel for the petitioner, and the learned Government Pleader for Transport

appearing for the respondents and also perused the record.

6. Admittedly, the petitioner's vehicle is registered for transportation of school children and staff and permit was obtained to ply the vehicle within

twin cities and Ranga Reddy District. According to the Vehicle Check Report, the vehicle was found plying as contract carriage proceeding to

Tirupati contrary to the permit conditions and documents were not produced which necessitated the authorities to seize the vehicle. This Court, by

order dated 15.05.2013 in W.P.No.14807 of 2013 filed by the petitioner, has directed the respondent authorities to release the vehicle subject to the

petitioner depositing of Rs.10,000/- and furnishing an undertaking that it will not alienate the vehicle. The vehicle was accordingly released in

compliance with the directions of this Court and respondent No.2 issued show cause notice directing the petitioner to submit explanation and to pay

differential tax of Rs.98,000/-. The petitioner, having received the said show cause notice, has not submitted any explanation and on the contrary, has

taken a plea for the first time in this writ petition that the Manager, who was looking after the transport operations of the vehicles, has left the

institution without intimating about the show cause notice.

7. Further, respondent No.2, after verification of the records relating to the vehicle, found that the petitioner has paid tax up to Q.E. 30-09-2012 @

Rs.1240/- per quarter and the vehicle was covered by pucca permit

No.AP128/2410/EIP/2011 valid up to 28.06.2016 authorised to ply within twin

cities and Ranga Reddy District and contrary to the said permit conditions, when the vehicle was transporting 10 members to Tirupati, the same was

seized and as such, the petitioner is liable to pay the differential tax amount of Rs.98,000/-. Therefore, we see no valid reason to interfere with the

impugned demand notice issued by respondent No.2 directing the petitioner to pay the differential amount of tax. As such, the writ petition deserves to be dismissed.

8. At this stage, learned counsel for the petitioner requested this Court to direct the respondents to adjust the 50% of the demanded amount paid by

the petitioner in compliance with the order passed by this Court on 27.12.2014.

9. Therefore, the writ petition is dismissed directing the respondents to give credit to the amount already deposited by the petitioner in compliance with

the order passed by this Court on 27.12.2014 and to recover the balance amount in accordance with law.

Miscellaneous applications, pending if any, shall stand closed. There shall be no order as to costs.