

(2005) 11 MAD CK 0059

Madras High Court

Case No: Writ Petition No. 38157 of 2005 and WPMP No. 40794 of 2005

Pondicherry Bus (Stage Carriage)
Owners Association

APPELLANT

Vs

The State of Tamilnadu and The
Chief Project Officer, Tamilnadu
Road Development Co. Ltd.

RESPONDENT

Date of Decision: Nov. 25, 2005

Hon'ble Judges: P.D. Dinakaran, J

Bench: Single Bench

Advocate: K. Radha Gopalan, for the Appellant; R. Vijayakumar, G.A., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

P.D. Dinakaran, J.

The petitioner seeks a writ of Certiorari to call for the records of the first respondent pursuant to its order in Letter No. 11540/HV2/20 04-2 Highways (HV2) Department, dated 15.09.2004 rejecting the request of the petitioner association for revising the toll rate and to quash the same.

2. The petitioner Association is a registered one and the members are operating stage carriages. Some of them operate between Pondicherry to Marakanam and Pondicherry to Chennai. On the East Coast Road, there is a tollgate at a distance of 32 kms from Pondicherry. The vehicles use the East Coast Road only for a distance of 18 to the Tamil Nadu Road Development Company for lowering the toll rates. The aspect that the petitioner association are using the East Ckms between Hanumanthai Tollgate and Marakanam, for which a levy of toll of Rs. 53/- per single trip and Rs. 95/for return pass, Rs. 150/- for daily pass and Rs. 3100/- for monthly pass is being collected. The toll fee is fixed for plying the vehicles via the East Coast Road between 22/3 and 135/5 Kms. The petitioner association gave representations

to the respondents for reduction of toll fee. As the representations were not considered, W.P. No. 22212 of 2004 was filed for a Mandamus directing the respondents to consider and dispose of the representation of the petitioner association dated 9.4.2002, with regard to reduction in the toll fee and that writ petition was allowed. Thereafter, the first respondent passed an order in letter No. 11540/HV2/2004-2, Highways (HV2) Department, dated 15.09.2004, stating that they are unable to recommend the request of the petitioner's association oast Road only for a distance of 18 kms. has not been considered. Hence the above writ petition.

3. The respondents rejected the request of the petitioner by the impugned proceedings dated 15.9.2004, which reads as follows:

"By Registered Post
with Ack. due Highways(HV2) Department,
Secretariat,
Chennai-9.

Letter No: 11540/HV2/2004-2 Dated 15.9.2004

From

Dr. P. Rama Mohana Rao, I.A.S.,
Secretary to Government.

To
The Secretary,
Pondicherry Bus (Stage Carriage),
Owners" Association,
198, Maraimalai Adigal Salai,
Pondicherry 605 013.

Sir,

Sub: Levy of Toll on ECR - Representation from Pondicherry Bus Owners" Association and W.P. No. 22212/2004 filed before the High Court, Madras - Reg.

Ref: 1. Your representation dated 9.4.2002.

2. Your representation dated 5.7.2004 addressed to the Hon"ble C.M. Government of Tamil Nadu.

3. From the High Court, Madras orders dated 4.8.2004 in W.P. No. 22212/04.

1. I am directed to invite kind attention to the references cited.

2. In this connection, it may be mentioned that the Pondicherry Bus Owners Association had made a similar representation to the CM"s Cell, which was referred to the Tamil Nadu Road Development Company. Accordingly, Tamil Nadu Road Development Company had sent the requisite clarification/response to the

Pondicherry Bus Owners' Association vide letter dated August 19, 2002 in which the company has emphasized that;

i) The toll rates have been notified for three different stretches, like the stage fare in buses, wherein there is a fixed charge for any distance traveled within that stretch/stage;

ii) Tolls charged for buses belonging to the Association making trips between Pondicherry and Marakanam is as applicable for stretch/ stage between Pondicherry and Mahabalipuram, a maximum stage distance of 78 km, and not 130 km as represented in their letter.

3. I am, also to re-iterate that in order to facilitate regular users, the Company has offered very attractive schemes such as Monthly Passes and 50 Trip Passes, providing discounts of 40% and more. Monthly Passes are valid for unlimited number of trips performed within a month, while 50-Trips Passes are valid for performing 50 trips. The applicable concessional rates for the buses are as follows:-

Stretch	Monthly Pass	50-Trip Pass
traversed on ECR	(Rs).	(Rs).

Any places/destinations between Pondicherry and Mahabalipuram	3100	1600
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It may be observed that against the notified toll rate of Rs. 53/- for a single trip, the per trip rate for buses works out to only Rs. 32/- for a 50-Trip Pass. This is, of course, even lower if the buses are crossing the toll plaza more times a day, and avail of the Monthly Pass facility, in which case the expense works out to a meager Rs. 100/- per day; or a per trip rate of as low as Rs. 16/- (for six trips per day) to Rs. 25/- (for four trips per day).

4. Considering the enhanced levels of service on the road and the additional savings in vehicle operating costs and time, it is point out that the above rates are extremely reasonable. The effective toll rate/Km, if the buses avail of monthly pass, works out to few paises per km, which would be amongst the lowest for Buses, anywhere in the country or outside. It may be noted that in the extant case, even for Marakkanam and notwithstanding the stage fare, the effective per km toll rate works out to a meager Re.1/- per km (for 50-trip Pass) and substantially lower for Monthly Passes.

5. I am, also to point out that the toll rates have not been revised so far, ever since the first notification dated March 21, 2002. The Company is already suffering losses due to non-revision of toll rates and any further reduction will further damage the

financial viability of the Project.

6. I am directed to state that in view of the above, this Government is unable to recommend the request of Pondicherry Bus (Stage Carriage) Owner's Association to Tamil Nadu Road Development Company for lowering the toll rates for the buses belonging to the Association. The buses plying on this routes may be advised to purchase 50-trip/ Monthly pass as deemed appropriate.

Yours faithfully

Sd/- For Secretary to Government.

Copy to:

The Chief Executive Officer,

Tamil Nadu Road Development Company, Chennai-8."

4. Once the members of the petitioner association enter into the East Coast Road, as per the permit granted to them, they are covered under the tariff rates and are under obligation to pay the toll fee, which is collected not only for the usage of the East Coast Road with reference to the distance being travelled, but also for other related facilities provided thereunder, viz. Highways Traffic Patrol surveillance, first aid facilities in the case of accident, if any, etc. and such facilities could not be restricted with reference to the usage of distance being covered. Therefore, the claim of the members of petitioner association that they are liable to pay the tax only with reference to portion of distance covered, is not acceptable.

Finding no reason to interfere with the impugned order, the writ petition is dismissed. No costs.