

(2011) 08 MAD CK 0381

Madras High Court (Madurai Bench)

Case No: Writ Petition (MD) No. 11372 of 2008 and M.P. (MD) No"s. 1 of 2008 and 1 of 2009

The Regional Transport
Authority, Theni District, Theni

APPELLANT

Vs

The State Transport Appellate
Tribunal, Chennai-104 and M.
Fathima Begum

RESPONDENT

Date of Decision: Aug. 25, 2011

Hon'ble Judges: Vinod K. Sharma, J

Bench: Single Bench

Advocate: D. Muruganandam, Addl. Government Pleader, for the Appellant; C.R. Krishnamurthy For 2nd Respondent, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Honourable Mr. Justice Vinod K. Sharma

1. The 2nd Respondent, the permit-holder for running mini bus, applied to the Regional Transport Authority, for permission to run an additional mini bus on the licensed route.
2. The application was not considered and the 2nd Respondent approached the learned State Transport Appellate Tribunal, Chennai. The directions were issued to the Regional Transport Authority, to consider and decide the representation filed by the 2nd Respondent.
3. On consideration, the prayer of 2nd Respondent was declined, on the ground that the Respondent No. 2, was using the permit and there were no reported break down of buses. In any case, sufficient spare of buses were available on the route to take care of any break down.

4. The 2nd Respondent filed an appeal against the order. The appeal was allowed, and the case was remanded back to the Regional Transport Authority, to allow the application filed by the Petitioner.

5. The order passed by the Appellate Tribunal was not challenged and was allowed to become final.

6. On recommendation, the application of 2nd Respondent was again rejected, on the ground that the Respondent No. 2 had failed to appear at the time of hearing. The Respondent No. 2 again, filed appeal, before the appellate tribunal.

7. The order passed by Regional Transport Authority has been set aside on the ground, that specific directions of the appellate tribunal, for granting of permit to the Respondent No. 2 was not complied with and further issue the order showed non-application of mind.

8. The learned appellate tribunal also held, that the Petitioner should have been given an opportunity and vide impugned order, remanded the case back to the Regional Transport Authority, to consider the application filed by the Respondent No. 2 afresh.

9. The Learned Counsel for the Petitioner contends, that the impugned order cannot be sustained in law, as Respondent No. 2 had failed to appear before the Regional Transport Authority, therefore, the order was rightly passed, as it was the duty of the Respondent No. 2 to appear at the time of hearing.

10. This contention is totally misconceived. Vide impugned order, the case has been remanded back to the Regional Transport Authority, as the order of Regional Transport Authority was *prima facie* contrary to the directions issued by the appellate authority, which had attained finality.

11. Otherwise, also no adverse order has been passed against the Petitioner, as the matter stands remanded back to the Regional Transport Authority to decide the case afresh, where it will be open to Petitioner to raise all the points.

12. This writ petition, on the face of it, is misconceived. This Court normally does not interfere with an order of remand unless the order impugned is without jurisdiction or perverse on the face of it.

13. No merit. "Dismissed".

14. Consequently, connected Miscellaneous Petitions are closed. No costs.