

M/S. Jay & Co. and Others

Vs

The Regional Transport Authority, Madurai and Others

Writ Petitions Nos. 1891, 2001-2003, 2039-2040, 2058 of 1973 and 16-18, 20, 21, 38-40, 53-55, 129-130, 141-146, 167-168, 170-172, 194-195, 226, 239, 306, 311-313, 328, 345 and 356 of 1974 and 523-530 and 536 of 1974

(CJI A. N. Ry, K. K. Mathew, N. L. Untwalia JJ)

05.11.1974.

JUDGMENT

MATHEW, J. -

1. The petitioners in these writ petitions claim that they are entitled to operate the services on the basis of temporary permits granted to them in pursuance to Section 16 of the Tamil Nadu Stage Carriages and Contract Carriages (Acquisition) Act (Act No. 12 of 1973) even though the period of these permits has expired and the Act has been declared invalid by the Madras High Court.
2. The petitioners contend that they were operating their respective services on January 14, 1973 when Ordinance No. 1 of 1973 was promulgated and which was subsequently superseded with retrospective effect from January 14, 1973, by the Tamil Nadu Act No. 12 of 1973, that under Section 16 of that Act, as operators running vehicles on January 14, 1973, they were eligible for temporary permits, that they obtained temporary permits in pursuance thereof and, therefore, they are entitled to operate their services, notwithstanding the fact that the Act No. 12 of 1973 has been declared invalid by the High Court, as they cannot get any pucca or temporary permit from the Regional Transport Authority for running their services under the Motor Vehicles Act.
3. The State of Tamil Nadu has preferred appeals against the order declaring the ordinance and the Act as invalid and the appeals are pending in this Court.
4. None of the petitioners has challenged the validity of the orders passed by the Madras High Court in writ petitions filed by them against the orders of the State Transport Appellate Tribunal allowing the appeals against the orders granting the permits in their favour by the Regional Transport Authority. Therefore, these orders have become final.
5. The petitioners could, therefore, operate their services only on the basis of the temporary permits granted to them under the provisions of Section 16 of Act No. 12 of 1973. Now that that Act has been held to be invalid by the High Court, there is no question of the petitioners continuing to operate the services on the basis of temporary permits whose periods have expired or on the basis of temporary permits to be obtained hereafter under Section 16 of that Act.
6. But this does not mean that the petitioners are precluded from making applications for permits before the appropriate authority under the Motor Vehicles Act and obtaining permits. Now that Act No. 12 of 1973 has been held to be invalid by the High Court, the authority considering the

applications for permits will not be entitled to take into consideration any provision in that Act which inhibits the grant of permits. To put it differently, the authority will consider the application, if any, filed by the petitioners, on its merits, without regard to the provisions of Act No. 12 of 1973. As to what would happen to the permits, if granted, in case the appeals of the State against the orders declaring the Ordinance No. 1 and Act No. 12 of 1973 as invalid, are allowed, is a matter which does not arise for consideration now.

7. We make it clear that the petitioners will not be entitled to operate the service on the basis of the stay orders granted by this Court. We dismiss the writ petitions with costs. Hearing fee one set.

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