

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 20585 of 1998

Between:

S.Mallikarjuna, S/o. Ramulu,
R/o. 16-22, C.I.Office Road, Piduguralla,
Guntur District.

... PETITIONER

AND

- 1 The Secretary, Regional Transport Authority,
Narasaraopet, Guntur District.
- 2 The Motor Vehicles Inspector,
Piduguralla, Guntur District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent herein not assigning the petitioner's vehicles as a 7 seatr Motor Cab as illegal, arbitrary and discriminatory and further directing the respondents to assign the petitioner's vehicle bearing No., A.P.,7/A 3222 as 7 seator Motor Cab by granting All Andhra Permit.

Counsel for the Petitioner: MR.S.V.MUNI REDDY

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following:

ORDER:

This writ petition is filed seeking Mandamus declaring the action of the first

respondent herein in not assigning the petitioner's vehicle as a 7 seator Motor Cab as illegal, arbitrary and discriminatory and further directing the respondents to assign the petitioner's vehicle bearing No.AP.7/A 3222 as 7 seator Motor Cab by granting All Andhra Permit.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Transport appearing for the respondents.

3. It is represented by the learned Government Pleader for Transport that the subject matter in this writ petition is squarely covered by a Division Bench judgment of this Court in

O. Gangadhar V. Transport Commissioner, A.P. and others , wherein it was held as under. –

“ In pursuance of the interim orders of this Court in the earlier WP No.34574 of 1998 and Batch, the petitioners have purportedly reduced the seats from 9 or 10 in all to 7 in all *etc.*, and got Registration Certificate entries corrected and in view of the legal position laid down in the aforesaid Batch, which has become final and the view expressed supra, the petitioners are not entitled to continue the corrected entry in the Registration Certificate and the consequential motor cab permits, as the mere reduction in the number of seats of the motor vehicles possessed by the petitioners would not amount to alteration of the seating capacity and the petitioners cannot be permitted to ply as motor cabs by paying tax applicable to motor cabs. The circular memo issued by the Transport Commissioner is only to implement the Motor Vehicles Act, Motor Vehicles Taxation Act and the Rules made thereunder and the said circular does not suffer from any legal infirmity, though there is some inaccuracy in referring to the judgment of this Court. The alteration of entry in the Registration Certificate was got made by the petitioners as 7 in all pursuant to the interim directions to enable them to get the motor cab permits and in view of the judgment in the aforesaid Batch of writ petitions and the legal position, the Transport Department is entitled to restore the original entry in the Registration Certificates with regard to the seating capacity and register the vehicles as omnibuses or retain their original registration as omnibuses.

We do not see any merit in the writ petitions and accordingly they are dismissed. However, as it is represented that tax has been paid for this quarter and permits are in force and relevant quarter is going to end shortly, we direct that no action should be taken to cancel the permits upto 31-12-1999. No order as to costs”.

Recording the above submission and following the ratio in the aforementioned judgment, this Writ Petition is also dismissed. Office is directed to annex a copy of the judgment in W.P.No.20335 of 1999 and batch, dated 08-12-

1999, to this order. No costs.

N.V. RAMANA, J

February 28, 2005

MRR

Copy to:

- 1 The Secretary, Regional Transport Authority, Narasaraopet, Guntur District.
- 2 The Motor Vehicles Inspector, Piduguralla, Guntur District.
- 3 Two C.C. s to the G.P. for Transport, High Court Buildings, Hyderabad (OUT)
- 4 Two C.D. Copies.