

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE MOHAMMED NIAS C.P.

FRIDAY, THE 14TH DAY OF JULY 2023 / 23RD ASHADHA, 1945

WP(C) NO. 21684 OF 2013

PETITIONER:

TAMIL NADU STATE TRANSPORT CORPORATION
(TIRUNELVEI), LTD., NAGERCOIL REGION,
REPRESENTED BY ITS MANAGING DIRECTOR,
RANITHOTTAM, NAGERCOIL - 01.

BY ADV SRI.SUBHASH CYRIAC

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
- 2 KERALA STATE ROAD TRANSPORT CORPORATION
TRANSPORT BHAVAN, THIRUVANANTHAPURAM,
REP. BY ITS MANAGING DIRECTOR, 695 001.
- 3 SECRETARY TO GOVERNMENT, PUBLIC WORKS DEPARTMENT,
THIRUVANANTHAPURAM - 695 001.
- 4 THE CHIEF ENGINEER, DEPARTMENT OF NATIONAL HIGHWAYS,
VIKAS BHAVAN POST, THIRUVANANTHAPURAM - 695 033.
- 5 B.ANIL KUMAR, ANIL AGENCIES, ATTINGAL P.O.,
THIRUVANANTHAPURAM 695 001.

BY ADVS.

SRI.N.N.SUGUNAPALAN (SR.)

BY SR.GOVERNMENT PLEADER SMT.VINITHA.B.

SRI.S.SUJIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07.07.2023, ALONG WITH WP(C).15545/2013, THE COURT ON
14.07.2023 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

FRIDAY, THE 7TH DAY OF JULY 2023 / 16TH ASHADHA, 1945

WP(C) NO. 15545 OF 2013

PETITIONER/S:

B.ANILKUMAR
S/O.A.V.BHARGAVAN, ANIL AGENCIES, CHIRAYINKIL
ROAD, ATTINGAL, THIRUVANANTHAPURAM 695 101.

BY ADVS.
SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENT/S:

- 1 TAMILNADU STATE TRANSPORT CORPORATION
NAGERCOIL REGION, NESAMANI NAGAR, RANITHOTTAM,
NAGERCOIL, KANYAKUMARI DISTRICT, TAMIL NADU
STATE, REPRESENTED BY ITS GENERAL MANAGER.
- 2 THE MANAGING DIRECTOR
TAMILNADU STATE TRANSPORT CORPORATION (MADURAI)
LTDNAGERCOIL REGION, NESAMANI NAGAR,
RANITHOTTAM, NAGERCOIL, KANYAKUMARI DISTRICT,
TAMIL NADU STATE.
- 3 THE SUPERINTENDENT OF POLICE RURAL
THIRUVANANTHAPURAM RURAL, VIKAS BHAVAN (PMG),
THIRUVANANTHAPURAM 695 001.
- 4 THE MANAGIING DIRECTOR SETC
TAMILNADU STATE TRANSPORT CORPORATION (MADURAI)
LTD, H.O PALLIVASALAI, CHENNAI 600 002,
TAMILNADU STATE.
- 5 THE MANAGING DIRECTOR
TAMILNADU STATE TRANSPORT CORPORATION (MADURAI)
LTD, VALLARPETTAI, H.O TIRUNELVELI, TAMIL NADU
STATE.

6 THE MANAGING DIRECTOR
TAMILNADU STATE TRANSPORT CORPORATION (MADURAI)
LTD, BYE PASS ROAD, MADURAI, TAMILNADU STATE.

BY ADVS.
SRI.SUBHASH CYRIAC
GOVERNMENT PLEADER
SRI.SUBHASH CYRIAC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 07.07.2023, ALONG WITH WP(C).21684/2013, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

MOHAMMED NIAS C.P., J

.....
WP(C)Nos.21684 and 15545 of 2013

.....
Dated this the 14th day of July, 2023

JUDGMENT

WP(C)No.21684 of 2013 is filed by the Tamilnadu State Transport (TNSTC) contending that they are entitled to operate its vehicle through the State of Kerala without paying any toll, fee or other charges for the use of the roads and also for directing the 5th respondent not to collect any toll fee for the petitioner's vehicle for passing through the newly constructed bridge at Amaravila. The basis of the contention is that the stage carriages of the petitioner operated on the basis of a reciprocal agreement between the two States and therefore, the Government of Kerala should treat the petitioner's vehicle at par with the Kerala State Road Transport Corporation (KSRTC) and extend all the benefits enjoyed by the KSRTC to the petitioner's vehicles as well.

2. A counter affidavit has been filed on behalf of the 4th respondent stating that the Amaravila Toll Booth situated in NH 47 at Ch.588/000 before Amaravila Bridge near Neyyattinkara was opened for the public in 2003 and that for the year 2013-2014, the estimated amount of toll collection at Amaravila Bridge was Rs.49,56.260/- and

after tender, the right for toll collection was awarded to the highest bidder one B.Anilkumar for Rs.67 lakh. The period of collection of contract for toll collection was from 6.5.2013 to 31.3.2014, and after execution of the required agreement, Anilkumar started toll collection from 6.5.2013 onwards. As per the agreement condition, an exemption was given to vehicles coming under various categories listed in item No.2 of Schedule B. In addition to that the vehicles of the KSRTC were entitled to exemption from toll as per item No.2, the special conditions in the agreement. The agreements were produced as Exts.R4(a) and R4(b). The buses of the Petitioner Corporation were never exempted. Even as per Toll Act amended in 1990 only those motor vehicles belonging to the Government of Kerala or the Government of India and any stage carriage operated by the KSRTC were exempted. It is clear from Ext.R4(a) list that the petitioner's vehicles are not exempted from paying the toll. Nothing produced by the petitioner enables them to get any exemption from payment of toll. In such circumstances, no relief can be granted in WP(C)No.21684 of 2013, and the same is hereby dismissed.

3. WP(C)No.15545 of 2014 is filed by B.Anilkumar, the contractor who was given the right to collect toll for one year from 6.5.2013 to 31.3.2014. He alleges that the TNSTC, the first respondent, is not paying toll which comes to around Rs.5000/- per day. Accordingly, he sought a direction against respondents 1, 2, and 4 to 6

to pay the toll fee at Amaravila point at NH 47. There is also a prayer to direct them to pay the arrears of toll fee from 1.4.2013 with interest at the rate of 12% in respect of the trips of their vehicles through Amaravila toll point at NH 47 at Thiruvananthapuram District. Learned counsel for the petitioner in WP(C)No.15545 of 2013 also brings to my notice the judgment in RSA No. 600 of 2011 passed by a Bench of this Court on 22.9.2011, wherein the appeal preferred by the TNSTC against a similarly situated contractor against whom a decree was passed in a suit for money that claimed toll fee for the vehicles in TNSTC. The contention of the Corporation that there is a reciprocal arrangement and that the TNSTC is liable to pay the toll amount was found against him.

4. In view of the above and my findings in WP(C)No.21864 of 2013, wherein I have already held that the TNSTC is liable to pay toll fee, and it is declared that respondents 1, 2, and 4 to 6 are liable to pay the toll fee. However, as the quantum of the amount payable calls for a factual adjudication, the petitioner is directed to approach the civil court for the quantification of the amounts, respondents 1,2 and 4 to 6 are liable to pay. Granting such liberty, WP(C)No.15543 of 2013 is partly allowed. It is also made clear that the period spent by the writ petitioner in prosecuting this writ petition, namely, from 23.8.2013 onwards, will be excluded to compute the period of limitation.

WPC No.21684 of 2013 is dismissed. WPC No.15545 of 2013 is partly allowed.

MOHAMMED NIAS C.P.
JUDGE

APPENDIX OF WP (C) 15545/2013

PETITIONER'S EXHIBITS

EXHIBIT P1. TRUE EXTRACT OF THE RELEVANT PORTIONS OF THE TENDER CONDITIONS SHOWING THE SCHEDULE OF TOLL FEE AND THE VEHICLES WHICH ARE EXEMPTED FROM PAYING THE TOLL FEE IN RESPECT OF THE AMARAVILA TOLL POINT FOR THE PERIOD 2013-14.

EXHIBIT P1(a). TRUE COPY OF THE NOTICE INVITING TENDERS DATED 22.3.2013 ISSUED BY THE SUPERINTENDING ENGINEER, NATIONAL HIGHWAY (SOUTH) CIRCLE, THIRUVANANTHAPURAM

EXHIBIT P1(a). TRUE COPY OF THE AGREEMENT DATED 6.5.2013 EXECUTED BETWEEN THE PETITIONER AND THE SUPERINTENDING ENGINEER, NATIONAL HIGHWAY (SOUTH) CIRCLE, THIRUVANANTHAPURAM

EXHIBIT P2. TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 24.5.2013 IN WPC NO.12674/2013.

EXHIBIT P3. TRUE COPY OF THE REPRESENTATION SENT BY THE PETITIONER TO THE RESPONDENTS 1 AND 2 DATED 1.6.2013.

EXHIBIT P4. TRUE COPY OF THE JUDGMENT DATED 28.09.2010 IN OS NO.18/2006 OF THE SUBCOURT, NEYYATTINKARA.

EXHIBIT P10: TRUE COPY OF THE INTERIM ORDER DATED 5.10.2013 IN WP(C) NOS.15545/2013 AND 21684/2013 PERMITTED THE 1ST RESPONDENT.

EXHIBIT P11: TRUE COPY OF THE TRIP DETAILS OF THE VEHICLES OF THE 1ST RESPONDENT.

EXHIBIT P13: TRUE COPY OF THE ORDER DATED 5.10.2013 OF THIS HON'BLE COURT.

EXHIBIT P14: TRUE COPY OF INFORMATION DATED 4.2.2014

EXHIBIT P15: TRUE COPY OF INFORMATION DATED 3.1.2014

EXHIBIT P16: TRUE COPY OF THE INTERIM ORDER DATED 20.02.2014 IN IA NO.2302/2014

EXHIBIT P17: TRUE COPY OF THE LETTER DATED 19.2.2014 ISSUED BY THE EXECUTIVE ENGINEER

EXHIBIT P18: TRUE COPY OF THE LETTER DATED 22.2.2014
ISSUED BY THE 7TH RESPONDENT SUPERINTENDING ENGINEER

EXHIBIT P19: TRUE COPY OF THE OBJECTION DATED 25.2.2014
SUBMITTED BY THE PETITIONER BEFORE THE EXECUTIVE
ENGINEER, PWD NH DIVISION, THIRUVANANTHAPURAM

EXHIBIT P20: TRUE COPY OF THE OBJECTION DATED 25.2.2014
SUBMITTED BY THE PETITIONER BEFORE THE SUPERINTENDING
ENGINEER, PWD NH DIVISION, THIRUVANANTHAPURAM

RESPONDENTS EXHIBITS

EXT.R8(a): TRUE COPY OF THE REQUEST 1r.NO.46/C1/05 DATED
3.5.2005 OF THE TAMIL NADU STATE TRANSPORT CORPORATION
LTD. TO THE CHIEF ENGINEER, NH, THIRUVANANTHAPURAM

EXT.R8(b): TRUE COPY OF THE Lr.NO.13202/D2/05/PWD TO THE
CHIEF ENGINEER, NH, THIRUVANANTHAPURAM

EXT.R8(c): TRUE PHOTOCOPY OF THE LETTER NO.NH1-D1-
8662/89 DATED 21.07.2005 FROM THE CHIEF ENGINEER, NH,
THIRUVANANTHAPURAM

EXT.R8(d): TRUE PHOTOCOPY OF THE SCHEDULE B

EXT.R8(e): TRUE PHOTOCOPY OF THE SPECIAL CONDITIONS
ANNEXED TO THE AGREEMENT.

EXHIBIT R1(a): TRUE COPY OF THE GAZETTE NOTIFICATION
PUBLISHED IN KERALA GAZETTE DATED 27.9.1999 WITH ITS
ANNEXURES

EXHIBIT R1(b): TRUE COPY OF THE OFFICIAL GAZETTE OF THE
STATE OF TAMIL NADU DATED 11.08.1999 WITH ITS ANNEXURES.

APPENDIX OF WP (C) 21684/2013

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF GAZETTE NOTITION PUBLISHED IN KERALA GAZETTE DATED 27/09/1999.

EXT.P2: TRUE COPY OF THE OFFICIAL GAZETTE OF STATE OF TAMIL NADU DATED 11/08/1999.

EXT.P3: TRUE COPY OF THE LETTER DATED 03/05/2005 SENT BY THE PETITIONER TO THE 4TH RESPONDENT.

EXT.P4: TRUE COPY OF THE LETTER DATED 06/07/2005 SENT BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT.P5: TRUE COPY OF THE LETTER DATED 21/07/2005 BY THE 4TH RESPONDENT TO THE PETITIONER.

RESPONDENTS EXHIBITS

EXT.R4(a): TRUE COPY OF THE LIST OF EXEMPTED VEHICLES FOR PAYMENT OF TOLL

EXT.R4(b): TRUE COPY OF THE AGREEMENT NO.3/SENH/SC/2013-14 DATED 6.5.13