

GAHC010179332024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4486/2024

DASARATH NARZARY
S/O- PARMESHWAR NARZARY, VILL.- EAST ROWMARI, P.O. KHAGRABARI,
P.S. DHALIGAON, DIST. CHIRANG, BTR, ASSAM, PIN- 783385.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER TO THE GOVT. OF ASSAM,
TRANSPORT DEPARTMENT, ASSAM, DISPUR, GUWAHATI-781006.

2:THE SECRETARY TO THE GOVT. OF ASSAM
TRANSPORT DEPARTMENT
DISPUR ASSAM
GHY-781006.

3:THE DISTRICT TRANSPORT OFFICER
BONGAIGAON
DIST. BONGAIGAON
ASSAM PIN- 783380.

4:THE DISTRICT TRANSPORT OFFICER
BARPETA
DIST. BARPETA
ASSAM PIN- 781301.

5:THE OFFICER-IN-CHARGE
BONGAIGAON POLICE STATION
DIST. BONGAIGAON
ASSAM
PIN- 783380

Advocate for the Petitioner : MR. A M AHMED, P. GHOSH, B DAS

Advocate for the Respondent : SC, TRANSPORT DEPARTMENT, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 05.11.2024

Heard Mr. A. M. Ahmed, learned counsel for the petitioner. Also heard Ms. M. D. Borah, learned Standing Counsel for the Transport Department and Mr. S. S. Roy, learned counsel for the respondent No. 5.

2. The petitioner is aggrieved by the action of the respondent No. 4, who has locked the petitioner's vehicle, bearing registration No. AS-19-AC-4338 (Tata Intra), which had met with an accident on 13.11.2023, which resulted in an injury being caused to one lady, i.e. Smt. Rama Das. As a consequence of the vehicle accident, Bongaigaon P.S. Case No. 497/2023 under Sections 273/337/388 IPC was registered with the Bongaigaon Police Station. The injured lady also filed a claim before the Motor Accident Claims Tribunal, Bongaigaon, which was registered as MAC Case No. 365/2023 under Section 166 of the Motor Vehicles Act, 1988, claiming compensation on account of the injury sustained by her.

3. The petitioner has approached this Court with a prayer that the locking of the registration of the petitioner's vehicle should be set aside and the vehicle should be released to the petitioner.

4. Ms. M. D. Bora, learned Standing Counsel, Transport Department has submitted a letter dated 04.11.2024 issued by the District Transport Officer (i/c),

Barpeta, which is to the effect that as per the official records, the petitioner's vehicle has been blacklisted by the DTO, Bongaigaon. However, the vehicle has been seized by the office of the District Transport Officer, Barpeta. Though notice has been sent on three occasions to the petitioner, no response has been received from the vehicle owner.

5. Ms. M. D. Borah, learned Standing Counsel has also submitted that three notices dated 20.05.2024, 25.06.2024 and 31.07.2024 were issued to the petitioner, requesting him to compound the motor vehicle offence case, vide E-challan No. AS 137968240123172241/23/01/24 and to take custody of the seized vehicle from the office of the DTO, Barpeta, within 7 days from issuance of the notice. It further states that failure to compound the offence within the stipulated time under Rule 109 (A) of the Assam Motor Vehicle (Amendment) Rules, 2023, would result in the seized vehicle being disposed of through public auction under the District Level Committee, Barpeta.

6. Ms. M. D. Borah also submits that the petitioner has not approached the office of the District Transport Officer, Barpeta as well as DTO, Bongaigaon, with regard to the seized/locked vehicle till date.

7. I have heard the learned counsels for the parties.

8. On perusal of the writ petition, this Court finds that the petitioner has not annexed a copy of any representation submitted to the respondents, for release of the vehicle, bearing No. AS-19-AC-4338, which implies that the petitioner has not approached the respondent authorities for release of his vehicle, prior to approaching this Court.

9. The letter dated 04.11.2024 and the three notices dated 20.05.2024, 25.06.2024 and 31.07.2024 are made a part of the record and marked as Annexure-X collectively.

10. A perusal of the above letter and the three notices shows that the vehicle is to be released, subject to compounding of the motor vehicle offence involving the said vehicle. However, as the petitioner has not approached the concerned authorities, no further action could be taken by the State respondents.

11. In view of the above facts, this Court is of the view that the petitioner should first approach the concerned authorities by submitting a representation to the respondent Nos. 3 & 4, for release of his vehicle as per law. As there is an efficacious alternative remedy available, this Court is not inclined to proceed further with this case. The petitioner is accordingly given the liberty to approach the respondent Nos. 3 & 4 for release of his vehicle.

12. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant