

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 27795 of 2015 (Y)

PETITIONER(S):

**MANOJ KUMAR, AGED 39 YEARS,
S/O.PRABHAKARAN, PRABHA NIVAS, ATTINGAL POST,
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.J.JAYAKUMAR

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
CIVIL STATION, KUDAPPANAKUNNU,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE TALUK SUPPLY OFFICER,
TALUK SUPPLY OFFICE, CHIRAYINKEEZHU TALUK,
ATTINGAL - 695 101, THIRUVANANTHAPURAM.**
- 3. THE SUB INSPECTOR OF POLICE,
ATTINGAL POLICE STATION,
THIRUVANANTHAPURAMDISTRICT. 695 101.**

BY SENIOR GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE AGENCY ORDER ISSUED BY THE SURYA
 PETROLEUM PVT.LTD., ERATTUPETTA TO THE PETITIONER**
- EXT.P-2: TRUE COPY OF THE REGISTRATION CERTIFICATE OF VEHICLE
 BEARING REG.NO.KL-21/J-2469.**
- EXT.P-3: TRUE COPY OF THE SEIZURE MAHAZAR DATED 2.5.2015 PREPARED
 BY THE 2ND RESPONDENT**
- EXT.P-4: TRUE COPY OF THE APPLICATION DATED 8.5.2015 FILED BY THE
 PETITIONER BEFORE THE 1ST RESPONDENT**
- EXT.P-5: TRUE COPY OF THE ORDER DATED 22.8.2015 OF THE 1ST
 RESPONDENT**
- EXT.P-6: TRUE COPY OF THE LETTER DATED 1.9.2015 GIVEN BY THE
 PETITIONER'S COUNSEL TO THE 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 27795 of 2015

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Dated this the 9th day of November, 2015

J U D G M E N T

The petitioner has been proceeded under Liquefied Petroleum Gas (Regulation of Supply and Distribution) order, 2000 (hereinafter referred to as 'LPG Order' for short). Ext.P5 is the order of the District Collector. The District Collector imposed a penalty of Rs.1,30,000/- and also ordered the release of the vehicle on payment of the penalty. The petitioner has approached this Court for release of the vehicle. The petitioner admits that he has not paid the penalty.

2. According to the petitioner the District Collector has no power to impose fine. Therefore the vehicle has to be released to the petitioner.

3. The action has been initiated under the LPG order. This order is issued under the Essential Commodity Act. Sec. 6A empowers confiscation of essential commodity. The Collector has power under Sec. 6A (c) to confiscate vehicle used in carrying essential commodity. Sec.6A 2nd proviso confers a power to impose fine in lieu of confiscation. The 2nd proviso reads as follows:

“[Provided further that in the case of any animal, vehicle, vessel or other conveyance used for the carriage of goods of

passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay, in lieu of its confiscation, a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried by such animal, vehicle, vessel or other conveyance”]

4. The power given to the Collector under the above proviso is to impose fine not exceeding market price in lieu of its confiscation. Therefore it is clear that the vehicle can be confiscated. However it can be released by collecting a fine not exceeding the market price of the seized vehicle. Therefore option can be given to the owner of the vehicle to pay the market value of the seized vehicle in lieu of confiscation as fine. Collector has to ascertain the market value of the vehicle.

This Court is of the view that it is obvious that while deciding the matter, Collector had not adverted to Sec.6A. Therefore a fresh order shall be passed after adverting to Sec.6A as above. Needful shall be done within three weeks from the date of receipt of the copy of this judgment. The petitioner is directed to produce copy of this judgment before the District Collector.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE