

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.06.2015

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.13287 of 2015 and
M.P.No.1 of 2015

R.Jayashankar

...Petitioner

Versus

1. The District Collector,
Office of the Collectorate,
Krishnagiri,
Krishnagiri District.
2. The Sub-Collector,
Office of the Sub-Collector,
Hosur, Krishnagiri District.
3. The Tahsildar,
Hosur Taluk,
Krishnagiri District.
4. The Village Administrative Officer,
Mukkandapalli,
Hosur Taluk, Krishnagiri District.

.. Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to release the petitioner's vehicle, namely, Mahindra Navistar (12 Wheels) bearing Registration No.TN 70-H-0923 with the sand load based on his representation dated 07.03.2015.

For Petitioner : Mr.P.Satheesh Kumar

For Respondents : Mr.T.N.Rajagopalan,
Special Government Pleader

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/>

This Writ Petition has been filed seeking issuance of a Writ of Mandamus seeking to issue a Writ of Mandamus, directing the

respondents to release the petitioner's vehicle, namely, Mahindra Navistar (12 Wheels) bearing Registration No.TN 70-H-0923 with the sand load based on his representation dated 07.03.2015.

2. The learned Counsel for the petitioner would submit that the petitioner is the owner of the lorry, namely, Mahindra Navistar (12 Wheels) bearing Registration No.TN 70-H-0923 and bought the said lorry by obtaining loan of Rs.22 Lakhs from Cholamandalam Finance, Hosur. The EMI for the loan amount is around Rs.59,000/- and he has been regular in paying the EMI. The petitioner has paid 75% of the loan amount and only the balance is to be paid. He has been utilising the said lorry for transporting the sand. While so, for putting up construction for a company at No.1A2, Nallur Agraharam, Begepalli Post, Hosur Taluk, Krishnagiri District, the petitioner has bought 5 units of sand from one Mr.M.K.Govindharaj who has been issued licence to take sand for a period of one year from 01.12.2014 to 02.12.2015 as he is running a stockyard at S.F.No.28/2B, 28/3, Kulithalai Taluk, Karur District. The petitioner purchased the sand from the said Govindharaj and loaded the same in his vehicle at about 10.10 a.m., on 06.03.2015. As per the rules and regulations, he is entitled to unload the sand in a proper place within 12 hours from the time of loading, namely, at No.1A2, Nallur Agraharam, Begepalli Post, Hosur Taluk, Krishnagiri District. However, when he was transporting the sand, at about 7.30 p.m., on 06.03.2015, an Officer in SIPCOT Check Post stopped his lorry on the direction of the 2nd respondent. Immediately, the petitioner's driver produced the sale slip issued by the licensee. However, the vehicle of the petitioner was detained without assigning any reason. On the next day itself, i.e., on 07.03.2015, the petitioner made a representation to the 2nd respondent, namely, the Sub-Collector, Hosur, Krishnagiri District. But the same is pending till date without any response. As a result, the petitioner who is eking out his livelihood by plying the transport vehicle is put to great prejudice which compelled him to approach this Court by filing the present Writ Petition.

3. The learned Counsel for the petitioner would further submit that in the impugned order it is stated that since the petitioner has not produced the permit slip for the loaded sand, his vehicle was seized. Admittedly, in the present case, the permit slip has been given and that was also annexed along with the representation of the petitioner dated 07.03.2015. He would further submit that in the permit slip produced before this Court, the place of destination was shown as Pegapalli, Krishnagiri District and the name of the driver was shown as Perumal and the quantum of the sand was shown as 5 units and the time of issue of sale slip was mentioned as 06.03.2015 at 10.10 a.m.; the departure of the sand showing 10.10 a.m., and the approximate time to reach the destination at 10.10 p.m., on the same day and these details do not create any suspicion. Though all these facts have been clearly explained, the petitioner's vehicle has been detained unnecessarily by the 2nd respondent. Therefore, the learned Counsel for the petitioner prays to issue a direction as prayed for by the petitioner as he is having valid permit slip for carrying the sand.

4. Mr.T.N.Rajagopalan, learned Special Government Pleader appearing for the respondents vehemently opposing the present writ petition would contend that at the time of occurrence, the petitioner is not the driver of the alleged vehicle which transported the sand as per the details mentioned in the Permit Slip No.18304 issued on 06.03.2015. He would further submit that even after the seizure of the vehicle, though the 2nd respondent issued a notice to the petitioner to appear for enquiry, he has not chosen to appear before the 2nd respondent.; if at all he is not at fault, he would have appeared before the 2nd respondent in response to his notice and explained his case. The learned Special Government Pleader would also contend that the non-appearance of the petitioner for the so called enquiry would go to show that he has committed offence. Therefore, the Writ Petition is liable to be dismissed.

5. Heard the learned Counsel on either side. I have also carefully perused the records.

6. At the outset, it is the case of the respondents that the vehicle of the petitioner was seized on 06.03.2015 on the direction of the 2nd respondent on the ground that the driver has not produced the permit slip for carrying sand. But, a perusal of the permit slip annexed along with the copy of the petitioner's representation dated 07.03.2015 would indicate all the details, namely, the place of destination, the name of the driver, the quantum of the sand, the time of issue of sale slip, the departure of the sand loaded vehicle and the approximate time to reach the destination clearly. Therefore, it is crystal clear that the petitioner has purchased the sand from a licensee one Mr.Govindharaj and he has transported the sand as per the rules and regulations. In view of all the above, I am of the view that the petitioner is entitled to take back his vehicle.

7. In the result, the Writ Petition stands allowed and the second respondent is directed to release the vehicle of the petitioner, namely, Mahindra Navistar (12 Wheels) bearing Registration No.TN 70-H-0923 with the sand loaded, on production of a copy of this Order forthwith. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

To

1. The District Collector,
Office of the Collectorate,
Krishnagiri,
Krishnagiri District.
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4. The Village Administrative Officer,
Mukkandapalli,
Hosur Taluk, Krishnagiri District.

+1cc to Mr.P.Satheesh Kumar,Advocate SR.No.27131

1 CC to the Government Pleader SR NO 27203

W.P.No.13287 of 2015

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