

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.16031 of 2015

Ka.Ki.Rajendiran

.. Petitioner

-vs-

1. The Director of Geology and Mining
Guindy Industrial Estate
Guindy
Chennai
2. The District Collector
Erode District
Erode
3. The Assistant Director
Department of Geology and Mining
Collectorate
Erode District
Erode
4. The Sub Collector
Gobichettipalayam
Erode District
5. The Tahsildar
Sathyamangalam Taluk
Erode District

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to release the Tipper bearing Reg.No.TN 36 T 6070 forthwith by accepting the provisional fine.

For Petitioner :: Mr.R.Jayaprakash

For Respondents :: Mr.A.Kumar
Special Government Pleader

ORDER

This writ petition has been filed by Mr.Ka.Ki.Rajendiran seeking issuance of a writ of mandamus, directing the respondents to release

the Tipper bearing Registration No.TN-36-T-6070 forthwith by accepting the provisional fine, as per the order passed by this Court in K.Mani v. The Revenue Divisional Officer, Ranipet, Vellore District and another, 2005 (2) CTC 499, wherein also a similar issue has been decided by this Court.

2. The petitioner claims to be the owner of Tipper lorry bearing Registration No.TN-36-T-6070 and he has got a permit from the Public Works Department vide proceedings dated 19.2.2015 for carrying 'vandal soil' from Bhavanisagar dam for the period from 20.2.2015 to 6.3.2015. It is the further claim of the petitioner that when the vehicle was carrying 'vandal soil' from the said dam on 20.2.2015, the Assistant Director of Geology and Mining, Erode intercepted his vehicle and asked for the permit. Though the petitioner produced the second copy of the original, the vehicle was seized and the same is under the custody of the Tahsildar, Sathyamangalam Taluk, the fifth respondent herein. Therefore, the grievance of the petitioner is that the petitioner's vehicle cannot be seized and detained for a long time without any notice or enquiry. That apart, the Sub Collector, Gobichettipalayam, the fourth respondent herein also, without issuing any notice whatsoever, directed the petitioner to pay a sum of Rs.3,91,260/- by the proceedings dated 9.3.2015. Hence, the order passed behind the back of the petitioner without any opportunity is vitiated for the reason that no notice whatsoever was issued to the petitioner as contemplated under the Rules. Adding further, he submitted that the calculation of fine from the year 2013, assuming that the petitioner has been using the tipper for carrying soil without permit, is unwarranted, because there is no basis. However, the petitioner preferred an appeal before the District Collector, Erode, the second respondent herein who also, repeating the averments made by the petitioner in the grounds of appeal, without assigning any good reason, dismissed the same. As against that, the petitioner has preferred a further appeal before the Director of Geology and Mining, Chennai, the first respondent herein and the same is pending. In the meanwhile, the vehicle seized on 20.2.2015 is exposed to sun and rain, resultantly, it is undergoing wear and tear. Therefore, the learned counsel submitted that if the vehicle is directed to be released, as per the order passed by this Court in K.Mani's case (supra), by imposing a minimum fine of Rs.25,000/-, as the petitioner has got a fair chance of success in the pending appeal, no prejudice would be caused to the respondents.

3. The learned Special Government Pleader appearing for the respondents, heavily objecting to the above prayer, submitted that a mere reading of the order passed by the first appellate authority shows that the petitioner has been repeatedly doing the same offence again and again without any impunity. Therefore, the prayer for release of the vehicle temporarily, when the issue is seized of by the second appellate authority, is far from acceptance.

4. This Court, although finds some merit in the submissions made by the learned Special Government Pleader for the respondents, is inclined to accept the prayer of the petitioner, while considering a similar order passed in an identical matter in K.Mani's case (supra), wherein a direction was issued to complete and dispose of the pending enquiry/adjudication proceedings within a reasonable time, since the appeal is pending before the second appellate authority, namely, the first respondent herein. Hence this Court, taking into account that the vehicle is left to vagary of nature for quite a long time, is inclined to direct the first respondent to dispose of the pending appeal within a period of three weeks from the date of receipt of a copy of this order, failing which the first respondent shall release the vehicle viz., Tipper lorry bearing Registration No.TN-36-T-6070 to the petitioner by accepting a fine of Rs.25,000/-, as indicated by the third respondent in his order dated 9.3.2015. This Court has come to the conclusion to issue the direction to the first respondent to release the vehicle with the collection of Rs.25,000/-, since the petitioner has been issued with the permit by the Executive Engineer, Public Works Department dated 19.2.2015. With the above direction, the writ petition stands disposed of. Consequently, M.P.No.1 of 2015 is closed. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Director of Geology and Mining
Guindy Industrial Estate
Guindy
Chennai

2. The District Collector
Erode District
Erode

3. The Assistant Director
Department of Geology and Mining
Collectorate
Erode District
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4. The Sub Collector
Gobichettipalayam
Erode District

5. The Tahsildar
Sathyamangalam Taluk
Erode District

+1 cc to Government Pleader, SR.28976

+1 cc to Mr.R.Jayaprakash, Advocate, SR.28534.

W.P.No.16031 of 2015



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