

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.36968 of 2015

Venkateswari

[Petitioner]

Vs

- 1 The Motor Vehicle Inspector
Grade-II Attur
- 2 The Regional Transport Officer
Attur
- 3 The Inspector of Police
Attur Police Station Attur [Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 2nd Respondent herein to release the petitioners vehicle bearing Registration No.KA1 3C0001/2006 which was seized by the 1st respondent and now in the custody of the 3rd respondent.

For petitioner : Mr.A.Ganesan

For respondents: Mr.M.S.Ramesh, AGP

O R D E R

Heard the learned counsel appearing for the petitioner and Mr.M.S.Ramesh, learned Additional Government Pleader, who took notice for the respondents and with their consent, the main writ petition is taken up for disposal at the admission stage itself.

2.This writ petition has been filed under Article 226 of the Constitution of India seeking direction to the 2nd respondent to release the petitioner's vehicle bearing Registration No.KA1 3C0001/2006, which was seized by the 1st respondent and now in the custody of the 3rd respondent.

3. The petitioner, being owner of vehicle bearing registration No.KA13C0001, which is covered by Contract Carriage

Omni bus permit issued by the State Transport Authority, Pondicherry, which is valid upto 11.01.2020. Since major repairs have to be done to the said vehicle, the vehicle was taken to Erode from Puducherry on 12.11.2015, during which the same was stopped by the 1st respondent, who has checked the vehicle and prepared check report by alleging non production of various documents and detained the vehicle and handed over the same to the 3rd respondent. It is the further case of the petitioner that on 13.11.2015, though the petitioner produced valid records before the 2nd respondent and requested for the release of the vehicle, till date, the vehicle has not been released. Hence, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit that in case of any violation of the permit conditions by the owner of the vehicle, it is always open to the respondents to take action, in accordance with law, but it is not open to them to seize the vehicle. That apart, according to him, after seizure, though the petitioner has made a representation to release the vehicle along with relevant documents, till date the request of the petitioner has not been considered.

5. On the other hand, the learned Additional Government Pleader appearing for the respondents would submit that once a vehicle is seized or detained, the owner of the vehicle has to submit an application under Section 207(2) of the Motor Vehicles Act before the concerned authority and the said authority, after verification of all the necessary documents, will order to release of the said vehicle.

6. At this juncture, the learned counsel for the petitioner would submit that the petitioner has filed an application for the release of the vehicle under Section 207(2) of the Motor Vehicles Act before the concerned authority on 13.11.2015 and apart from this, according to the learned counsel for the petitioner, the petitioner is also willing to file an affidavit of undertaking to the effect that he will not alienate the said vehicle and he will also produce the same as and when required by the respondents.

7. It is well settled proposition of law that for violation of the permit conditions, the authorities concerned are entitled to take action as per the rules and regulations for cancellation of permit. It is also seen from Section 207 of the Motor Vehicles Act that on production of relevant documents by the owner of the seized vehicle, it is the duty of the authority concerned to consider the release of seized vehicle, but, as far as the case in hand is concerned, it has not been done.

8. In view of the above and in view of the submission made by the learned counsel for the petitioner that the petitioner is

willing to file an affidavit of undertaking, the respondents are directed to release the vehicle forthwith on filing of an affidavit of undertaking by the petitioner to the effect that she will produce the vehicle as and when required by the respondents and will not alienate the same without permission from the respondents, however, after verification of all the relevant documents produced by the petitioner. As far as violation of permit is concerned, it is open to the respondents to proceed against the petitioner in accordance with law.

The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

- 1 The Motor Vehicle Inspector
Grade-II Attur
- 2 The Regional Transport Officer
Attur
- 3 The Inspector of Police
Attur Police Station Attur

+1 cc to Mr.A.Ganesan, Advocate, sr.62855

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