

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.38165 of 2015
and M.P.No.1 of 2015

S. Rajagopala Gowda

[Petitioner]

Vs

- 1 The Motro Vehicles Inspector
Grade I Regional Transport Office
Mathigiri Hosur Krishnagiri District.
 - 2 The Regional Transport Officer
Hosur Krishnagiri District
 - 3 The Inspector of Police
Berigai Police Station Krishnagiri District
- [Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 2nd and 3rd respondents herein to release the petitioner Stage Carriage Bus-KA-08/ 6876 (seized by the 1st respondent now in the custody of the 3rd respondent) forthwith.

For petitioner : Mr.K.Hariharan
For respondents: Mr.R.M.Muthukumar, GA

O R D E R

Heard the learned counsel appearing for the petitioner and Mr.R.M.Muthukumar, learned Government Advocate, 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 and 3rd respondents herein to release the petitioner Stage Carriage

Bus-KA-08/ 6876 (seized by the 1st respondent now in the custody of the 3rd respondent) forthwith

3. The petitioner is holding a stage carriage interstate enclave route permit issued by the State Transport Authority, Bangalore for the route Tarahunase to Hoskote via Masthi, Beraki etc. places in respect of vehicle No.KA-08/6876. On 22.11.2015, when the vehicle was on a regular trip, the 1st respondent checked the vehicle and seized the same for the alleged violation of permit conditions such as original records of the vehicle not produced for check and suspected that the vehicle did not have the permit for route plied. After seizure, the 1st respondent left the custody of the vehicle with the 3rd respondent. It is the further case of the petitioner that on 23.11.2015, though the petitioner produced all the original 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 23.11.2015 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 he 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/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1 The Motro Vehicles Inspector
Grade I Regional Transport Office
Mathigiri Hosur Krishnagiri District.
- 2 The Regional Transport Officer
Hosur Krishnagiri District
- 3 The Inspector of Police
Berigai Police Station Krishnagiri District

+1cc to M/S.K.Hariharan, Advocate sr.65149

W.P.No.38165 of 2015

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