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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2015

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THE HONOURABLE MR. JUSTICE T. RAJA

W.P. (MD) Nos. 17507 and 17508 of 2015

1. Sheeja Robinson : Petitioner in WP.17507/2015
2. Usha : Petitioner in WP.17508/2015

Vs.

1. The Regional Transport Officer,
Marthandam,
Kanyakumari District.

2. The Motor Vehicle Inspector Grade-I,
Marthandam,
Kanyakumari District.

: Respondents in both Wps.

COMMON PRAYER: Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondents to release the petitioner's vehicle bearing Registration Nos. KL-17-C-7788 and KL-41-4114, respectively, which were seized on 25.09.2015, now in the custody of the respondents office forthwith.

For Petitioners : Mr. H. Velavadas
For Respondents : Mr. T. R. Janardhan
Addl. Govt. Pleader

COMMON ORDER

These Writ Petitions have been filed by Sheeja Robinson and Usha respectively, for release of their vehicles bearing Registration Nos. KL-17-C-7788 and KL-41-4114, respectively, which were seized on 25.09.2015, now in the custody of the respondents office forthwith.

2. Learned counsel appearing for the petitioners submitted that the petitioners, being the owner of the contract of carriage permit bearing Reg. Nos. KL-17-C-7788 and KL-41-4114, respectively, claim to have obtained permit from the Regional Transport Authority, Parasala, Kerala State, for a period of five years from 18.10.2013 to 17.10.2018. Adding further, he would submit that after obtaining permit, they were plying their vehicles with 49 and 40 passengers respectively and while they were going to Kanyakumari on 25th September, 2015, their vehicles were intercepted and seized by the 2nd respondent. Subsequently, the petitioners have given representations on 26.09.2015 and the same is pending before the respondents,



therefore, a direction should be given to the respondents to release the petitioners' vehicles. In support of his prayer, learned counsel has also relied on Section 207(2) of the Motor Vehicles Act, 1988, which says that, when a motor vehicle is seized and detained under sub-section (1), the owner may apply to the transport authority together with the relevant documents for release of the vehicle and such authority or officer may, after verification of such documents, by order, release the vehicle subject to such conditions as the authority may deem fit to impose.

3. Opposing the above prayer, Mr.T.R.Janarthanan, learned Additional Government Pleader appearing for the respondents would submit that both the petitioners have plied their vehicles without even carrying any passenger on the date of inspection viz., 25.09.2015. The permit issued by the Government of Kerala in FORM.PSp, under Rule 144(f) shows that the petitioners are having valid permit for the vehicles bearing Reg.No.KL-41-4114 till 28.09.2015 and the another vehicle bearing Reg.No.KL 17-C-7788 till 06.10.2015, however, when the petitioners have got a journey route from Kanyakumari, Tirunelveli, Thoothukudi, Velankani, Chennai, Vellore, Palany, Kodaikanal, Ooty, Madurai etc., Pondicherry, Karnataka State - Bangalore, Mysore, etc., Andhra Pradesh - Tirupathi, Koodaloor etc., Telungana, Golkonda, Secunderabad, Tank bund, etc., atleast some passengers should have been found in the concerned vehicles, whereas, on the date of inspection conducted on 25.09.2015, by the police officials, there was no passenger found, as claimed by the petitioners, therefore, the vehicles were seized and after seizure of the vehicles, immediately, the driver of the vehicles ran away from the place and hence, the Vehicle Inspection Report / Detention Order could not be immediately served on them. If the petitioners are possessing valid permit and operating the vehicles in accordance with law, there is no need for the drivers to ran away from the place of occurrence. As they ran away from the spot, that action of the drivers clearly shows that they are not operating the vehicles with valid permit. It is also the case of the respondent that at the time of checking the vehicles, a mob of 10 persons attacked the checking members for preventing them from discharging their duties. Therefore a case has been registered against them in Crime No.852 of 2015, for the offences under Sections 147, 294(b), 353 and 506(ii) of IPC., on the file of Thuckaly Police Station.

4. The learned counsel for the petitioners in reply submitted that the petitioners' names are not found place in the FIR.

5. This Court finds some merits in the submission made by the learned Additional Government Pleader appearing for the respondents. No doubt, both the petitioners have got valid permit. The vehicle bearing Registration No.KL 41-4114 is given permit upto 28.09.2015, similarly, another vehicle bearing Reg.No. KL-17C-7788 is also given permit upto 06.10.2015. While so, it is not known why drivers of the vehicle without receiving the Vehicle Inspection Report / Detention Order ran away from the place. Secondly, nothing has been



mentioned in the affidavits filed in support of the writ petitions, although the affidavit has three pages, which are bereft of particulars. Therefore, this Court is not able to see any merits in the writ petition.

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6. At this juncture, it is relevant to extract the Section 207(2) of the Motor Vehicles Act, 1988, which reads as under:

"(2) Where a motor vehicle has been seized and detained under sub-section (1), the owner or person incharge of the motor vehicle may apply to the transport authority or any officer authorised in this behalf by the State Government together with the relevant documents for the release of the vehicle and such authority or officer may; after verification of such documents, by order release the vehicle subject to such conditions as the authority or officer may deem fit to impose."

7. In view of Section 207(2) of the Motor Vehicles Act, both the petitioners are directed to approach the Regional Transport Officer, Marthandam, Kanyakumari District, the first respondent herein, along with the relevant documents, for release of their vehicles. On receipt of any such fresh representation with the relevant documents for the release of the vehicles, after verification of such documents, it is open to the first respondent to consider the same on merits and pass appropriate orders for releasing of the vehicles, within a period of one week from the date of receipt of fresh representation from the petitioners.

8. With the above direction, the Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

- 1.The Regional Transport Officer, Marthandam,
Kanyakumari District.
- 2.The Motor Vehicle Inspector Grade-I,
Marthandam, Kanyakumari District.

+1cc to Mr.C.Bharathi, Advocate SR.No.59216

+1cc to The Special Government Pleader SR.Nos.59759 and 59760

akm/15.10.2015 /3p-5c/

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