NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 956 of 2016

Chandrashekhar Kumar Singh S/o Shri Ganori Singh, Aged About 25 Years R/o Village Bhawandi, Post Ghewra, Police Station Rishiup, District Aurangabad, Bihar

---- Petitioner

Versus

1. State Of Chhattisgarh Through Principal Secretary, Government Of Chhattisgarh Department Of Transport, Mahandi Bhawan, Naya Raipur, Mantralaya, Raipur, (Chhattisgarh)

2. State Of Chhattisgarh, Through Secretary, Government Of Chhattisgarh Department Of Transport, Mahanadi Bhawan, Naya Raipur, Mantralaya, Raipur, (Chhattisgarh)

3. Commissioner, Department Of Transport, Mahanadi Bhawan, Naya Raipur, Mantralaya, Raipur, (Chhattisgarh)

4. Regional Transport Authority, Division Korba, District Korba, (Chhattisgarh)

5. Station House Officer, Balco, Police Station Balco, District Korba, (Chhattisgarh)

6. J.D. Sharma, Posted As Assistant Transport Commissioner On Contact Basis, Mahanadi Bhawan, Naya Raipur, Mantralaya, Raipur, (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. Gagan Tiwari, Advocate
For State	:	Mr. Satish Gupta, Government Advocate.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

18/04/2016

Heard on admission.

1. Learned counsel for the petitioner submits that the action of the respondent authorities in seizing the vehicle of the petitioner

vide seizure memo Annexure P/1 is illegal as no opportunity of hearing has been afforded to the petitioner. According to him, the petitioner has paid the entire tax amount due under the law but even though, the vehicle of the petitioner has been seized.

2. Learned counsel for the State submits that at present, the vehicle has only been seized under Section 16 of the Chhattisgarh Motoryan Karadhan Adhiniyam, 1991 (for short “the Act of 1991”). He further submits that the petitioner has remedy of applying for release of the vehicle by submission of necessary documents and proof of payment of tax under Section 16 (4) of the Act of 1991. He further submits that there is no provision obligating the authority to afford an opportunity of hearing before effecting seizure.

3. The statutory scheme of Section 16 of the Act of 1991, authorizes and empowers the Taxation Authority or any other officer, authorized by the State Government is this behalf, to enter into and inspect any motor vehicle or premises where he has reason to believe that a motor vehicle is kept for the purpose of verifying whether the provisions of this Act or any rules made thereunder are being complied with. The power of seizure has been conferred on such authority to effect seizure as provided under Section 16 (3) of the Act of 1991 where he has reason to believe that a motor vehicle has been or is being used without payment of tax, penalty or interest due. Section 16(4) of the Act of 1991 thereof provides an opportunity to the owner or the person incharge of the vehicle to apply to the Taxation Authority or any officer authorized in this behalf by the State Government together with the relevant documents, for the release of the vehicle under the Act. If such authority or officer, after verification of such documents, is satisfied that no amount of tax is due in respect of that vehicle, may be an order in writing, release such vehicle.

4. The aforesaid self-contained statutory scheme provides complete remedy to the petitioner and there is no reason why this Court should entertain this petition where there is a remedy for the petitioner to apply for release in terms of provision contained in Section 16 (4) of the Act of 1991.

5. There is no provision in Section 16 of the Act of 1991 which obliges the seizing authority to first afford an opportunity of hearing before the effecting seizure. Affording opportunity of hearing, in the absence of any express stipulation in the law coupled with in the nature of power exercise, is impliedly ousted. Therefore, I am unable to accept the submission that before effecting seizure, the petitioner was entitled to be afforded an opportunity of hearing.

6. In view of the above, this petition is dismissed however, with liberty to the petitioner to apply for release under Section 16(4) of the Act of 1991.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E

Rekha