

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2016

CORAM

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

W.P.No.1898 of 2016

KPN. Rajesh

... Petitioner

Vs

1. The Motor Vehicles Inspector,
Grade -I, Regional Transport Office,
Tiruppur.
2. The Regional Transport Officer,
Tiruppur South, Tiruppur-5. ... Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of Writ of Mandamus to the direct the 2nd respondent to release the petitioner's Tourist Omni Bus bearing registration No.PY-01-BY-3147 (seized by the 1st respondent now in the custody of the 2nd respondent forthwith.

For Petitioner ... Mr.R. Srinivasalu

For Respondents ... Mr.M.S.Ramesh
Addl. Govt. Pleader

ORDER

Heard Mr. K. Hariharan, learned counsel for the petitioner and Mr.R.Muthukumar, learned Government Advocate for the respondent.

2. With the consent of the learned counsel for the parties, the Writ petition is taken up for final disposal at the admission stage itself.

3. Petitioner has filed this Writ petition praying for a direction to the 2nd respondent to release the petitioner's Tourist Omni Bus bearing Registration Number PY-01-BY-3147 seized by the 1st respondent and is now in the custody of the 2nd respondent.

4. According to the petitioner, the petitioner's vehicle was hired by a tourist group for a period of 7 days from 10.1.2016 to 16.1.2016. On 13.1.2016, the 1st respondent checked the vehicle and seized the vehicle for the alleged violation of permit conditions such as individual fare collected, multi toned horn fitted in the vehicle, etc. On 18.1.2016, the petitioner made a representation before the respondent along with all the original records of the vehicle requesting to release the vehicle, but till date, the 2nd respondent did not release the vehicle. Hence he has come forward with the present writ petition.

5. 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 for the respondents to take action in accordance with law, but, it is not for them to seize the vehicle. That apart, according to him, after seizure, though the petitioner has made a representation for release of the vehicle along with relevant documents, till date, the request of the petitioner has not been considered.

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

7. At this juncture, learned counsel for the petitioner would submit that the petitioner has filed an application for release of the vehicle under section 207(2) of the Motor Vehicles Act before the authority concerned on 5.1.2016, and apart from that the petitioner is also willing to file an affidavit of undertaking to the effect, that he will not alienate the said vehicle and will also produce the same as and when required by the respondents.

8. It is a 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 the said vehicle.

9. Under the circumstances, the respondents are directed to release the vehicle of the petitioner, bearing No.PY-01-BY-3147 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 prior 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.

10. Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Vehicles Inspector,
Grade -I, Regional Transport Office,
Tiruppur.
2. The Regional Transport Officer,
Tirupur South, Tirupur-5.

+1cc to Mr.K.Hariharan, Advocate, S.R.No.4626
+1cc to the Government Pleader, S.R.No.5011

W.P.No.1898 of 2016

jsv(CO)
srg(29/01/2016)

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