

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.4066 of 2016
and
WMP.Nos.3406 and 3407 of 2016

M.Kalisamy

... Petitioner

Vs.

The District Revenue Officer
Dharmapuri,
Dharmapuri District.

... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified mandamus to call for the entire records relating to the impugned order passed by the respondent in his Proceedings No.Si.Pa.154/2015/J2 dated 29.04.2015 and quash the same and consequently direct the respondent to release the Eicher Lorry bearing Registration No.TN-74-Q-0499 seized on 22.09.2014 by the Inspector of Police, Civil Supplies CID, Krishnagiri, Krishnagiri to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondent : Mrs.P.Rajalakshmi,
Government Advocate

ORDER

The petitioner has come up with the present writ petition for a Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent dated 29.04.2015 and quashing the same and consequently directing the respondent to release Eicher Lorry bearing Registration No.TN-74-Q-0499 seized on 22.09.2014 by the Inspector of Police, Civil Supplies CID, Krishnagiri, to the petitioner.

2. It is the case of the petitioner that he is the owner of Eicher Lorry bearing Regn.No.TN 74 Q 0499 and he entrusted the said vehicle to his driver with strict instructions to use the same only for lawful purpose. While so, on 22.09.2014, he was engaged by one rice trader for transporting 100 bags of rice each 50 kg and 46 bags of paddy from Gobichettipalayam to Hosur, Krishnagiri District. When he was doing so, the vehicle was seized and the goods were detained at Thoppur Toll gate by the Inspector of Police, CSCID, Krishnagiri. Subsequently, the petitioner was arrested and remanded to judicial custody.

3. It is the further case of the petitioner that thereafter the respondent issued a notice under Section 6-B of the Essential Commodities Act 1955 to the petitioner. Since the petitioner was in prison, he did not aware of it. When he came to know about the same, he sought permission from the respondent to submit his explanation and an opportunity of personal hearing. However, without providing any opportunity to the petitioner, the respondent passed an exparte order in his proceedings No.Si.Pa.154/2015/J2 dated 29.04.2015 thereby confiscating his vehicle. Aggrieved against the same, the petitioner has filed the present writ petition for the above stated relief.

4. Learned counsel for the petitioner submitted that the goods in question were transported with valid documents. However, the respondent without properly verifying the same, seized the vehicle and detained the goods. Learned counsel for the petitioner by relying on the Second Proviso to Section 6-A of the Act, submitted that the respondent ought to have given option to the petitioner for paying the fine amount in lieu of confiscation. In that event, the order of confiscation passed by the respondent is illegal and arbitrary.

5. Heard the learned Government Advocate appearing for the respondent.

6. As rightly pointed out by the learned counsel for the petitioner, there shall be an option available to the petitioner under the second proviso to Section 6-A of the Act, as per which, in the case of any animal, vehicle, vessel or other conveyance used for the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay, in lieu of its confiscation, a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried by such animal, vehicle, vessel or other conveyance. In such

circumstances, without providing such opportunity to the petitioner, the respondent straight away passed the impugned order dated 29.04.2015, thereby confiscating the vehicle of the petitioner. Such failure on the part of the respondent, in my considered view, is illegal and arbitrary and the impugned order is liable to be set aside.

7.Thus, for the reasons stated above, the impugned order dated 29.04.2015 passed by the respondent is set aside and the matter is remanded back to the respondent for passing appropriate orders. The respondent is directed to consider and pass appropriate orders under Section 6-B of the Act, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner. The said exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order.

8.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The District Revenue Officer
Dharmapuri,
Dharmapuri District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.7991

W.P.No.4066 of 2016

GJ(CO)
CA(26/02/2016)

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