

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 07-01-2016

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WRIT PETITION No.758 OF 2016

S.Balavignesh

...Petitioner

-vs-

1.The Motor Vehicles Inspector, Grade-I,
Regional Transport Office,
Hosur, Krishnagiri District.

2.The Regional Transport Officer,
Hosur, Krishnarigi District.

3.Sub-Inspector of Police,
Udhinapalli Police Station,
Krishnagiri District.

...Respondents

Writ Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the third respondent to release the petitioner's stage carriage bus - TN-29/AS-9955, seized by the first respondent, now in the custody of the third respondent, forthwith.

For petitioner : Mr.K.Hariharan

For respondents : Mr.R.M.Muthukumar,
Govt.Advocate.

O R D E R

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

2. With 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 third respondent to release the petitioner's stage carriage bus, bearing No.TN-29/AS-9955, seized by the first respondent, and is now in the custody of the third respondent.

4. According to the petitioner, he holds a stage carriage permit, issued by the Regional Transport Authority, Dharmapuri, for the route from Dharmapuri to Athipalli Border, in respect of the bus, bearing No.TN-29/AS-9955; on 05.01.2016, when the said vehicle was on a regular trip, the first respondent checked the vehicle and seized the same, for the alleged violation of permit conditions; and, after seizure, the first respondent left the custody of the vehicle with the third respondent. It is the further case of the petitioner, that he produced all the original records pertaining to the vehicle before the second respondent and also submitted a representation, requesting for release of the vehicle, but, till-date, the respondents have not released the vehicle.

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 05.01.2016, 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 seized vehicle.

9. Under the circumstances, the respondents are directed to release the vehicle of the petitioner, bearing

No.TN-29/AS-9955, 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(Cs-III)

/TRUE COPY/

Sub-Assistant Registrar

dixit

To

- 1.The Motor Vehicles Inspector, Grade-I,
Regional Transport Office,
Hosur, Krishnagiri District.
- 2.The Regional Transport Officer,
Hosur, Krishnarigi District.
- 3.Sub-Inspector of Police,
Udhinapalli Police Station,
Krishnagiri District.

+1 CC to MR.K.Hariharan Advocate. SR.NO. 1321
+1 CC to Govt.Pleader. SR.NO. 1385

W.P.No.758 OF 2016

CO-VD

JD 08/01/2016

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