

In the High Court of Judicature at Madras

Dated: 15.03.2017

Coram

The Honourable Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.6068 of 2017

and

W.M.P.No.6505 of 2017

Thirumoorthi

.... Petitioner

Vs.

- 1.Secretary to Government,
Government of Tamilnadu,
Prohibition and Enforcement,
Home Department,
Fort. St. George,
Chennai-9.
- 2.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Coimbatore.
- 3.The Inspector of Police,
Prohibition and Enforcement Wing,
Periyanaickanpalayam,
Coimbatore.

...Respondent

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the records of the 2nd respondent in his proceedings No.63/ADSP/PEW/CBE/2016 dated 14.10.2016 and quash the same.

For Petitioner : Mr.R.Ganesh Babu

For Respondents : Mr.Akhil Akbar Ali for R1 and R2
Government Advocate

O R D E R

The petitioner is aggrieved against the proceedings dated 14.10.2016, issued by the second respondent wherein and whereby he was called upon to show cause as to why the subject matter vehicle seized on 01.10.2016 should not be confiscated under section 14(4) of the Tamilnadu Prohibition Act.

2.The second respondent has stated some reasons and grounds in the impugned notice for the proposed confiscation of the vehicle. It is seen that the petitioner, in pursuant to such notice, has given his explanation on 20.10.2016. It is stated that the second respondent has not passed any order so far,

based on the explanation given by the petitioner. Needless to say that the second respondent, having given the show cause notice and received the objection from the petitioner, has to pass the final order on the proposal of the confiscation of the petitioner's vehicle. When admittedly there is no such order passed, the petitioner is not entitled to challenge the very show cause notice itself in this writ petition, especially, when he has already chosen to reply to the same.

3. Therefore, without expressing any view on the claim made by the respective parties, I direct the second respondent to pass final orders on the proposal of the confiscation of the petitioner's vehicle, after giving an opportunity of hearing to the petitioner, within a period of two weeks from the date of receipt of a copy of this order, on its own merits and in accordance with law.

4. It is stated by the learned counsel for the petitioner that he was given possession of the vehicle in pursuant to an order passed by the Judiciary Magistrate No.II, Coimbatore in an application filed for return of the property. Therefore, he contended that till an order is passed by the second respondent, the possession at the hands of the petitioner shall not be disturbed.

5. Considering the above stated facts and circumstances, both the parties are directed to maintain status quo with regard to the possession of the vehicle till an order is passed by the second respondent. Needless to say that the possession of the vehicle at the hands of the petitioner is always subject to the result of the order to be passed by the second respondent as stated supra. In the result, the writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

/true copy/ जयते

Sub Asst. Registrar

vri
To

1. Secretary to Government,
Government of Tamilnadu,
Prohibition and Enforcement,
Home Department,
Fort. St. George,
Chennai-9.

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2.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Coimbatore.

3.The Inspector of Police,
Prohibition and Enforcement Wing,
Periyanaickanpalayam,
Coimbatore.

+1cc to M/s.R.Ganeshbabu,sr.16500

+1cc to Government Pleader sr.16516

W.P.No.6068 of 2017

nr(co)
ss(22/3/2017)



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