IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.2255 of 2017

And

W.M.P.No.2214 of 2017

Shabier Ahmed ... Petitioner

Vs.

1 The Regional Transport Officer
Coimbatore West,
Coimbatore.

2 The Motor Vehicles Inspector
Grade I,
Regional Transport Office,
Coimbatore West,
Coimbatore.

3 The Regional Transport Officer
Coimbatore Central,
Coimbatore. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to release the vehicle to the possession of the petitioner in respect of the petitioner's omni bus bearing Registration No.KA 53 3538 which is impounded within the office of the third respondent.

For Petitioner : Mr.S.Govindraman
For Respondents : Mr.Akhil Akbar Ali
Government Advocate



O R D E R

1.Issue Notice. Mr.Akhil Akbar Ali, learned Government Advocate, accepts notice on behalf of the respondents. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.The prayer made in the writ petition is that a direction be issued to the third respondent, to release the impounded omni bus, owned by the petitioner, bearing Registration No.KA 53 3538.

3.It is the case of the petitioner that he was granted a Contract Carriage Permit by the Karnataka State Transport Authority (in short, KSTA), in respect of the aforementioned vehicle.

3.1.The petitioner avers that the aforementioned vehicle was being run by him in neighbouring States, by virtue of a special permit issued to him and upon payment of requisite tax.

3.2.It is the petitioner's case that the permit issued by KSTA with regard to Contract Carriage was valid for the period commencing from 16.09.2015 and ending on 15.09.2020.

4.Furthermore, the petitioner submits that the special permit issued by the very same authority, i.e., KSTA enabled the petitioner to run the aforementioned vehicle between Bangalore and Trivandrum, via, various places, which fell in other States including the State of Tamil Nadu. The said special permit, according to the petitioner, was valid between the period 01.12.2016 and 31.12.2016.

5.It is the petitioner's submission that on 23.12.2016, the aforementioned vehicle was intercepted on the ostensible ground that the vehicle was used to ferry passengers from Bangalore to Coimbatore and at the relevant time, the driver of the vehicle was not in possession of a valid Registration Certificate, Permit and Tamil Nadu Tax Registration. The petitioner, however, as indicated above, says, that he has, in his possession, valid permits and would be willing to pay tax that may be levied to him, without prejudice to his right to contest the impugned order, on merits, before the concerned authority.

6.Furthermore, the learned counsel for the petitioner says that the petitioner is willing to abide by any condition that this Court may impose for release of the aforementioned vehicle, as, continued custody of the vehicle by the third respondent is causing great economic loss to the petitioner.

7.Mr.Akhil Akbar Ali, learned counsel for the respondents says that if tax, as calculated by the concerned authority, is paid, the aforementioned vehicle, for the time being, could be released to the petitioner upon an undertaking being given in addition, that the vehicle would be produced as and when required and that it would not be alienated, till proceedings before the concerned authority for alleged violations of the extant provisions of law are concluded.

8.I have heard the learned counsels appearing for the parties and perused the record.

9.In my view, since, the limited prayer made by the petitioner, before me, is for the release of the aforementioned vehicle, this writ petition can be disposed of, with the following directions.

9.1.The concerned authority would calculate the tax payable by the petitioner.

9.2.Upon the said amount being paid by the petitioner, the aforementioned vehicle would be released to the petitioner subject to the following conditions:

(a)an undertaking in the form of affidavit is filed by the petitioner stating therein, that the aforementioned vehicle will be produced before the concerned authority as and when required; and

(b)that the aforementioned vehicle will neither be alienated nor any third party interest would be created, till the conclusion of the proceedings before the concerned authority.

10.Needless to say, the respondents will calculate the tax and convey the amount to be paid, to the petitioner with due expedition, though, not later than three days, from the receipt of a copy of the order.

11.Upon the petitioner furnishing the undertaking, in the form of an affidavit, as indicated above, and payment of tax, the aforementioned vehicle will be released to the petitioner. The concerned authority will, however, have liberty to continue with the proceedings against the petitioner for purported violations of the extant provisions of law.

12.The writ petition is disposed of, accordingly, in terms of the aforesaid directions. Consequently, the connected pending application is also closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pri

To

1 The Regional Transport Officer
Coimbatore West,
Coimbatore.

2 The Motor Vehicles Inspector
Grade I,
Regional Transport Office,
Coimbatore West,
Coimbatore.

3 The Regional Transport Officer
Coimbatore Central,
Coimbatore.

+1cc to Mr.S. Govindaraman, Advocate, S.R.No.5759
+1cc to the Government Pleader, S.R.No.6242

ppa(CO)
md(01/02/2017)

W.P.No.2255 of 2017 And
W.M.P.No.2214 of 2017