

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.1351 of 2017
and
W.M.P.No.1281 of 2017

R.Ayyasamy

.. Petitioner

Vs.

1. The Regional Transport Officer,
O/o Regional Transport Officer,
Poonamallee,
Chennai 600 056.

2. The Inspector of Police,
Meenjur Police Station,
Chennai.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the entire records pertaining to the memorandum of the 1st respondent under charge memo No.116051/A1/2016 dated 28.12.2016 and to quash the same.

For Petitioner : Mr.S.Xavier Felix

For Respondents : Mr.Akhil Akbar Ali

सत्यमेव जयते

O R D E R

The petitioner is aggrieved against the proceedings dated 28.12.2016, issued by the 1st respondent, wherein and whereby, the petitioner was called upon to show cause as to why action should not be taken against him under Section 86 of the Motor Vehicles Act, 1988, by contending that the petitioner has failed to pay the road tax periodically in respect of three lorries bearing Registration Nos. TN-12-A-7302, TN-12-E-8978 and TN-12-B-7673.

2. The petitioner has sent a reply to the show cause notice on 02.01.2017. However, before passing the final order, one of

the vehicles belonging to the petitioner namely, Vehicle bearing TN-12-E-8978 was seized by the 1st respondent and parked at the police station viz., the 2nd respondent herein. Therefore, the present writ petition is filed challenging the proceedings of the 1st respondent dated 28.12.2016.

3. A counter affidavit is filed by the first respondent wherein it is stated that as on 14.11.2016, compounding fees in respect of 11 cases as per Section 86(5) of the Motor Vehicles Act, 1988, are to be recovered from the petitioner for the above three vehicles which totally comes to Rs.2,46,900/-, apart from penalty to be levied. Insofar as the vehicle bearing Registration No.TN-12-E-8978 which was seized on 10.01.2017 is concerned, it is stated that a total sum of Rs.1,18,300/- as compound fee is liable to be recovered from the petitioner.

4. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and perused the materials placed before this Court.

5. It is not in dispute that the impugned proceedings is only a show cause notice calling upon the petitioner to the show cause as to why action should not be initiated under Section 86 of the Motor Vehicles Act, 1988. It is also not in dispute that the petitioner has sent his objection on 02.01.2017 and the final order is yet to be passed by the 1st respondent. It is an admitted fact that, in the meantime, the petitioner's vehicle bearing Registration No.TN-12-E-8978 was seized on 10.01.2017.

6. The grievance of the petitioner is that when his reply sent to the show cause notice is yet to be considered and that no final order is passed by the 1st respondent, seizing of the vehicle, in the meantime, has caused great prejudice. Though it is contended so, the learned counsel for the petitioner however submitted that the petitioner is willing to pay the compounding fee of Rs.1,18,300/- in respect of the vehicle which has been seized, without prejudice to his contentions raised in the explanation given to the show cause notice. Therefore, he submitted that once the said amount is paid by the petitioner, the 1st respondent can be directed to release the vehicle.

7. Learned counsel for the first respondent submitted that within the time frame fixed by this Court, the final orders will be passed by the first respondent.

8. Considering the above stated facts and circumstances and also considering the fact that the vehicle was seized by the 1st respondent as early as on 10.01.2017 and the same is being exposed to sun and rain all these days by keeping it at the 2nd respondent's place, this Court is of the view that interest of

both parties would be protected, if the vehicle is released, subject to the following conditions.

(a) The petitioner shall pay a sum of Rs.1,18,300/- within a period of 7 days from the date of receipt of a copy of this order to the 1st respondent.

(b) On receipt of the said sum, the respondents are directed to release the vehicle to the petitioner forthwith.

(c) The 1st respondent shall consider the explanation/objection filed by the petitioner dated 02.01.2017 and pass final orders on merits and in accordance with law within a period of three weeks from the date of receipt of a copy of this order.

9. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Regional Transport Officer,
O/o Regional Transport Officer,
Poonamallee,
Chennai 600 056.

2. The Inspector of Police,
Meenjur Police Station,
Chennai.

+1cc to the S. Xavier Felix, Advocate in SR. 2974
(dt. 08/03/2017)

W.P.No.1351 of 2017

MP(CO)
VR(07/03/2017)

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