

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.23901 of 2017 &
W.M.P.No.25155 of 2017

R.Selvamurthy

.... Petitioner

Vs.

1. The Joint Transport Commissioner
Chennai (North Zone)
Chennai - 600 023
2. The Motor Vehicles Inspector Grade -I
O/o. of the Joint Transport Commissioner
(Enforcement Wing)
Chennai - 600 023
3. The Sub Inspector of Police
K-7, ICF Police Station
Chennai

.... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the respondents to release the Omnibus bearing Registration No.PY 01 BR 8266 with reference to Check Report No.A1091091dated 10.08.2017 of the 2nd respondent to the petitioner which is presently impounded and kept in the office compound of the 3rd respondent.

For Petitioner : Mr.S.Govindaraman

For Respondents : Mr.S.Diwakar

Special Government Pleader

O R D E R

Mr.S.Diwakar, learned Special Government Pleader, takes notice for the respondents. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above Writ Petition to issue a writ of mandamus, directing the respondents to release the Omnibus bearing Registration No.PY 01 BR 8266 with reference to Check Report dated 10.08.2017 of the 2nd respondent to the petitioner which is presently impounded and kept in the office compound of the 3rd respondent.

3.The learned counsel appearing for the petitioner submitted that in similar circumstances, this Court had disposed of the Writ Petition by imposing certain conditions for releasing the vehicle. This Court, by order dated 27.02.2017 in W.P.No.4805 of 2017, disposed of the said Writ Petition by imposing some conditions for releasing the vehicle. The relevant portion of the order passed in W.P.No.4805 of 2017 reads as follows:-

"6. Having regard to the fact that the representation dated 24.1.2017 is pending consideration of the 1st respondent, this Court is inclined to dispose of the writ petition with the following direction, since there will not be any purpose in detaining the subject vehicle for a longer period:-

"(i) The petitioner shall deposit a sum of Rs.25,000/- (Rupees twenty five thousand only) in cash with the first respondent.

(ii) The petitioner shall produce documents before the first respondent to establish the ownership of the vehicle in question.

(iii) The petitioner shall file an undertaking that he will produce the vehicle in question before the respondent as and when called for and that he will not alienate the vehicle in question till the proceedings initiated are completed.

(iv) On compliance of the above conditions, the respondent is directed to release the vehicle to the petitioner within two days.

(v) The respondent shall proceed with the enquiry and pass appropriate orders. The petitioner is also directed to appear and co-operate with the enquiry.

(vi) This order for release of vehicle can be availed of by the petitioner if no criminal case is pending. If any criminal case is pending, it is open to the petitioner to approach the jurisdictional Magistrate to get release of the vehicle by filing appropriate application and the same can be considered in accordance with law".

4.It appears that the vehicle of the petitioner was seized on 09.08.2017 by the 2nd respondent for the reason that the vehicle plied without tax and the records of the vehicle and the permit were not produced.

5.The petitioner, on the other hand, claims that the vehicle is covered with a valid contract carriage permit of Puducherry dated 25.11.2014.

6.The petitioner further contends that he made a representation on 19.08.2017 to the first respondent for release of his omnibus and the first respondent informed that the vehicle can be released on payment of compounding fee. Therefore, with regard to the imposition of compounding fee, as directed by the authority concerned, necessary compounding fee will be paid by the petitioner then and there. Further, according to the learned counsel for the petitioner, the vehicle is kept in open weather, by which the same is getting damaged.

7.Mr.S.Diwakar, learned Special Government Pleader, appearing for the respondents submitted that since the issue involved in the present Writ Petition is covered by the earlier order passed by this Court, the same order can be passed in this writ petition also and has no objection for releasing the vehicle imposing usual conditions.

8. Having regard to the submissions made by the learned counsel on either side, this Court is inclined to dispose of the Writ Petition with the following directions, since there will not be any purpose in detaining the subject vehicle for a longer period:-

"(i) The petitioner shall deposit a sum of Rs.25,000/- (Rupees twenty five thousand only) in cash with the first respondent.

(ii)The petitioner shall produce documents before the first respondent to establish the ownership of the vehicle in question.

(iii)The petitioner shall file an undertaking that he will produce the vehicle in question before the respondent as and when called for and that he will not alienate the vehicle in question till the proceedings initiated are completed.

(iv)On compliance of the above conditions, the respondent is directed to release the vehicle to the petitioner within two days.

(v) The respondent shall proceed with the enquiry and pass appropriate orders. The petitioner is also directed to appear and co-operate with the enquiry.

(vi) This order for release of vehicle can be availed of by the petitioner if no criminal case is pending. If any criminal case is pending, it is open to the petitioner to approach the jurisdictional Magistrate to get release of the vehicle by filing appropriate application and the same can be considered in accordance with law.

(vii) As directed by the 1st respondent, the petitioner shall pay the compounding fee within a period of two weeks from the date of receipt of a copy of this order."

With the above observations, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

Rj

To

1. The Joint Transport Commissioner
Chennai (North Zone)
Chennai - 600 023
2. The Motor Vehicles Inspector Grade -I
O/o. of the Joint Transport Commissioner
(Enforcement Wing)
Chennai - 600 023
3. The Sub Inspector of Police
K-7, ICF Police Station
Chennai.

+1 CC to Mr. S. Govindarajan, Advocate sr 64205.

+1 Cc to The Govt. Pleader sr 64097.

W.P.No.23901 of 2017 &
W.M.P.No.25155 of 2017

BR(CO)

SP(20/09/2017)

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