

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.24115 of 2017
and W.M.P.No.25461 of 2017

P.Umamaheswari

[Petitioner

Vs

1 The Motor Vehicles Inspector
Meenambakkam RTO Office,
Meenambakkam Chennai 16.

2 The Regional Transport Officer
Meenambakkam Chennai 16.

[Respondents]

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 2nd respondent herein to release the petitioner's contract carriage Omni Bus PY-01/BW-0612 (seized by the 1st respondent now in the custody of the 2nd respondent) forthwith.

For Petitioner : Mr.K.Hariharan
For Respondents : Mr.S.Diwakar, SGP

O R D E R

Mr.S.Diwakar, learned Special Government Pleader, takes notice for the respondents.

2. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

3. The petitioner has filed the above Writ Petition to issue a writ of mandamus to direct the 2nd respondent to release her Contract Carriage Omni Bus PY-01/BW-0612 (seized by the 1st respondent now in the custody of the 2nd respondent) forthwith.

4. It is the case of the petitioner that she holds a Contract Carriage Omni Bus permit issued by STA Pondicherry in respect of vehicle number PY-01/BW-0612, which is valid upto 22.10.2018. The petitioner also obtained special permit u/s 88(8) of the Motor Vehicles Act, 1988 for 7 days valid from 10.08.2017 to 16.08.2017 and it is the further case of the petitioner that when the vehicle was on a tour in Tamil Nadu, the 1st respondent checked the vehicle and seized the same for

the alleged violation of permit conditions such as proof for payment of Tamil Nadu Tax not available during check and unaccompanied luggage carried in the top of the vehicle. After the seizure, the 1st respondent left the custody of the vehicle with the 2nd respondent. As per Section 207(2) of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"), once the request to release the vehicle is made, the vehicle has to be returned to the owner of the vehicle or the person in charge of the vehicle. However, contrary to the provision of the Act, the 1st respondent seized the vehicle and left it in the custody of the 2nd respondent. On 11.08.2017, the petitioner produced all the original records before the 2nd respondent including tax payment receipt and requested to release the vehicle, but, the vehicle was not released till this date.

5. Since the request was made to release the vehicle under Section 207(2) of the Act, the vehicle should have been returned to the owner of the vehicle. In the case on hand, till today, the vehicle has not been returned to the petitioner, against the provisions of the Act.

6. In these circumstances, I direct the respondents to return the petitioner's vehicle bearing Registration No.PY-01/BW-0612 to the petitioner, after verification of all the relevant documents produced by the petitioner and also on payment of applicable tax and on further condition that the petitioner shall file an affidavit of undertaking to the effect that the petitioner will produce the petition mentioned vehicle as and when required by the respondents and will not alienate the same, without prior permission from the respondents, forthwith. It is also open to the respondents to proceed against the petitioner for the alleged violation of the permit conditions, in accordance with law.

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

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1 The Motor Vehicles Inspector

Meenambakkam RTO Office, Meenambakkam Chennai 16.

2 The Regional Transport Officer, Meenambakkam Chennai 16.

+ 1 cc to Mr. K. Hariharan, Advocate Sr.64813

W.P.No.24115 of 2017

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