

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

W.P.No.24201 of 2017 &
W.M.P.No.25574 of 2017

C.Rajendran

.... Petitioner

v.

1 The Transport Commissioner
Ezhilagam, Cheuapuk
Chennai - 600 005

2 The Regional transport Officer
Thoothukudi

3 The Motor Vehicles Inspector, Grade I
Ambasamudram

... 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.KL 70 2982 with reference to the Check Report No.A1059884, dated 12.08.2017 of the 3rd respondent , which is presently impounded and kept in the office compound of the 2nd respondent.

For Petitioner : Mr.S.Govindaraman
For Respondents : Mr.O.Selvam
Government Advocate

ORDER

Mr.O.Selvam, learned Government Advocate, 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.KL 70 2982 with reference to the Check Report dated 12.08.2017 of the 3rd respondent, which is presently impounded and kept in the office compound of the 2nd 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 2nd 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 12.08.2017 by the 3rd respondent for the reason that that the vehicle operated by collecting individual fair from individuals and further, 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 Kerala dated 26.10.2004.

6.The petitioner further contends that he made a representation on 18.08.2017 to the 2nd respondent for release of his omnibus and the 2nd 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.O.Selvam, learned Government Advocate, 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 2nd respondent.

(ii) The petitioner shall produce documents before the 2nd 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 2nd 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 2nd respondent is directed to release the vehicle to the petitioner within two days.

(v) The 2nd 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 2nd 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.

08.09.2017

Index: Yes/No

Rj

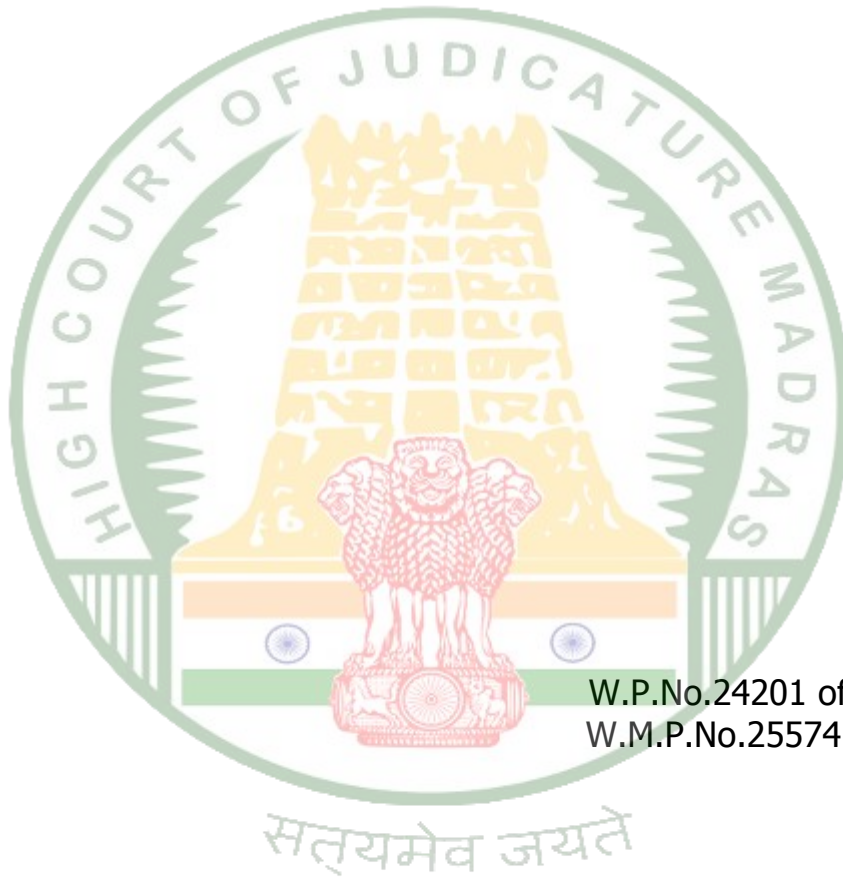
To

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M.DURAISWAMY, J.

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