

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

W.P.No.19408 of 2017

Venkateswari

... Petitioner

Vs

1. The Motor Vehicle Inspector Grade-I,
Regional Transport Office,
Salem (South) Salem.

2. The Regional Transport Officer,
Salem (South), Salem.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 2nd respondent to release the vehicle bearing Registration No.PY 01 CP 2048 which was seized by the 1st respondent.

For Petitioner : Mr.A.Ganesan

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 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 to direct the 2nd respondent to release the vehicle bearing Registration No.PY 01 CP 2048 which was seized by the 1st respondent and now in his custody.

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 14.07.2017 by the 1st respondent for non-production of the F.C. and is detained by him.

5.The petitioner, on the other hand, claims that the vehicle is covered by All India Contract Carriage Permit issued by the Deputy Secretary, Pondicherry State Transport Authority, Pondicherry, which is operated throughout India.

6.The petitioner further contends that she had approached the 2nd respondent with valid records and since no order has been passed, she is constrained to file the present Writ Petition. 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."

With the above observations, the Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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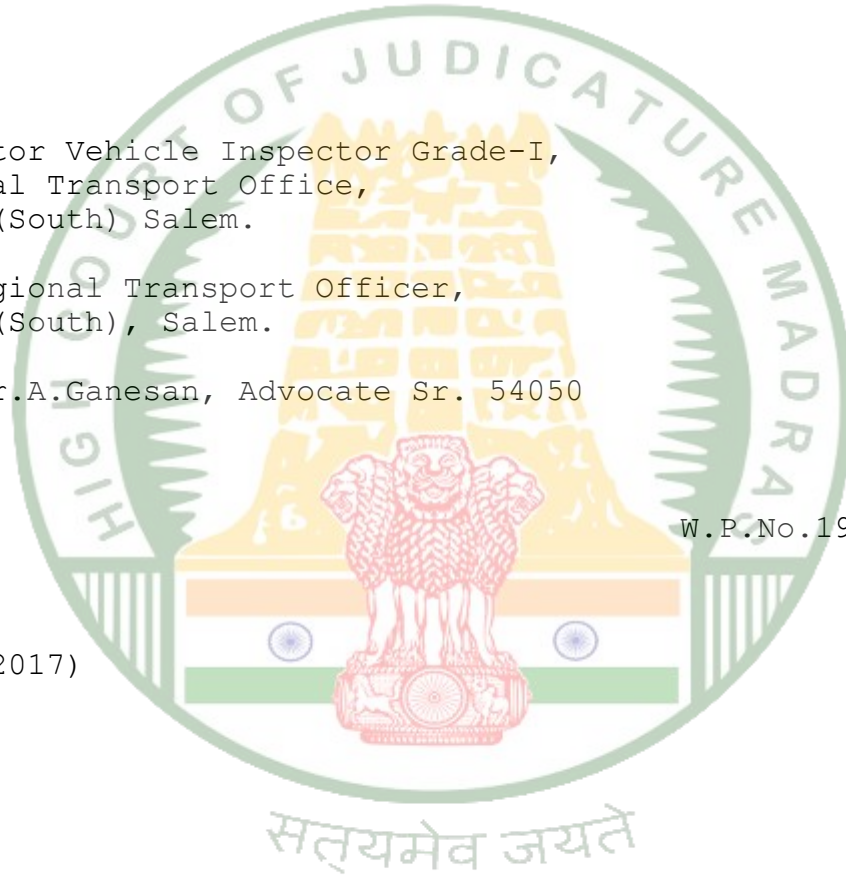
To

1. The Motor Vehicle Inspector Grade-I,
Regional Transport Office,
Salem (South) Salem.
2. The Regional Transport Officer,
Salem (South), Salem.

+1cc to Mr.A.Ganesan, Advocate Sr. 54050

W.P.No.19408 of 2017

AR(CO)
VR(31/07/2017)



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