



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON :28.06.2017
PRONOUNCED ON:20.09.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.14718 of 2014

M.Arumugavel

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Thiruchendur, Tuticorin District.

2.The Inspector of Police,
Arumuganeri Police Station,
Tuticorin District.

3.Muthu Ramasubramanian,
Inspector of Police,
Arumuganeri Police Station,
Tuticorin District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in Na.Ka.No.A3/2067/2014 dated 21.04.2014 issued by the first respondent and quash the same and consequently direct the first respondent herein to refund the sum of Rs.26,170/- which was collected from the petitioner in relating to the proceedings within the time stipulated by this Court.

For Petitioner : Mr.P.Mahendran

For Respondents : Mr.T.R.Janardhanam
R1 & R2 Additional Government Pleader

ORDER

This writ petition has been filed praying for a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in Na.Ka.No.A3/2067/2014 dated 21.04.2014 issued by the first respondent and quash the same and consequently direct the first respondent herein to refund the sum of Rs.26,170/- which was collected from the petitioner relating to the proceedings within the time stipulated by this Court.



2. The petitioner is the owner of the Vehicle bearing Registration No TN 22 AQ 8053. The petitioner belongs to Ramanathapuram District and ekes out a living by purchasing sand from an Authorized sand seller viz Shri. G.Mathialaghan (ROC No 97 G&M2/2014 dated 16.02.2014), transport the same in his own lorry driven by his driver Shri.Ganesamurthy and sell the same at different places.

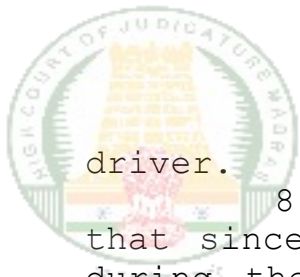
3. On 19.04.2014, the petitioner had purchased 2 units of sand from the same authorized vendor at Pudukottai and was transporting them for sale. Chit No 310 was issued to the petitioner duly attested and permitted by the Assistant Executive Engineer PWD for transportation of the Cargo. The transport time was mentioned to terminate at Udangudi at 5.30 PM approximately. The two units of sand had to be delivered at Kayalpattinam.

4. On 19.04.2014, at around 6.00 PM his vehicle was seized by the respondents with two units of sand at Kayalpattinam Village. The second respondent herein had impounded the vehicle, refused to take note of the Transport Chit No 310, and charged that the two units of sand were not carrying necessary permit. And a report to that effect was sent to the RDO regarding the alleged illicit transportation of sand.

5. The Zonal Tahsildhar vide mahzar dated 19.04.2014, seized the lorry along with the two units of sand on the belief that the same are liable for confiscation in terms of the Mining statutes. Statements were recorded from the driver on the same day. The driver had stated that the consignment is delayed in violation of the Transport Chit No 310 dated 19.04.2014.

6. A statement was recorded from the petitioner to admit to pay necessary fines for release of the lorry. The fact of the transport of the two units of sand from Pudukottai and delivering of the same in Kayalpattinam on way to Udangudi is also recorded in the statement. Thereafter, an amount of Rs.26,170/- was paid as fine and the vehicle was released to the petitioner.

7. The learned counsel appearing for the petitioner would submit that the actions of the respondents are arbitrary and illegal and the fine amount paid to secure his lorry in duress needs to be returned to him. There was a valid permit for transport of the two units of sand transported in his vehicle on the said date. The place where it was unloaded was not deviant from the route of the permitted destination. He alleges that the second respondent had in abuse of his powers, had premeditatedly impounded the vehicle with oblique motives at the instigation of some vested interests against the petitioner even when all the documents regarding the vehicle and sand were carried by the



driver.

8. Learned Additional Government Pleader would submit that since the petitioner transported the minerals illegally and during the course of the enquiry by the first respondent, he himself accepted the guilt and paid the fine amount, the order impugned in this writ petition is maintainable and hence, prays for the dismissal of this writ petition.

9. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents and I have perused the records of the proceedings.

10. On a perusal of the original records would show that there is no finding in the proceedings to establish the charge of illicit nature of transportation of the two units of sand that were seized on 19.04.2014. The seizure was validated on the sole presumption that the transport permit no 310 expired at 5.30 PM on 19.04.2014 and the purported statement of the driver. The validation is mechanical and no mind is applied. The expiry time mentioned in the transport permit is 'approximate' as mentioned in the permit itself. In any event, seizure of means and property, significantly affecting the rights of citizens cannot be done in a casual manner. They do enormous collateral damages to the livelihood especially when the means and conveyances impounded/seized are a primary source of income. Therefore seizures cannot be mechanically made on the basis of the flimsy ground of expired time. There should be a strong belief to effect seizure and the belief should be reasonable and the reason should be more than mere suspicion. In the instant case, more proof and appreciation of evidences is necessary to effect seizure.

11. There are specific allegations made against the third respondent in the Writ Petition. The same was not repelled or resisted by the respondents. I am inclined to agree that the casual exercise of authority by the third respondent resulted in enormous harassment and distress to the petitioner.

12. Accordingly, I hold that the seizure effected by the Zonal Tahsildhar vide mahazar dated 19.04.2014 is bad in law. When the seizure is bad, the proceedings dated 21.04.2014 validating the seizure becomes bad and is liable to be quashed.

13. Accordingly, Writ Petition allowed. The respondents are directed to return the fine amount of Rs.26,170/- within a period of four weeks from the date of receipt of a copy of this Order. List for compliance on 05.11.2017. Liberty is given to the petitioner to approach the appropriate forum to claim damages against the third respondent.



With the above direction, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(Crl side)

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/True Copy/

Sub Assistant Registrar

To,

1.The Revenue Divisional Officer,
Thiruchendur, Tuticorin District.

2.The Inspector of Police,
Arumuganeri Police Station,
Tuticorin District.

Copy to:

The section Officer,
Writ Section,
Madurai Bench of Madras High Court, Madurai.

+ 1 cc TO Mr.P.Mahendran , Advocate in SR No. 79811

ssm

AE/SKN RSK/SAR1/05.10.2017/4P/5C

W.P (MD) No.14718 of 2014
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