



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :15.03.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.4012 of 2017

Pandiyammal

.. Petitioner

Vs.

1.The District Collector,
District Collectorate,
Dindigul District.

2.The Assistant District Collector,
District Collectorate,
Dindigul District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order in Na.Ka.No.366/2017/A1 dated 04.02.2017 on the file of the second respondent and quash the same as illegal and consequently directing the respondents to release the tipper lorry bearing Registration No.TN-32-D-9698 which was seized on 09.01.2017.

For Petitioner : Mr.M.M.Iqbal

For Respondents : Mr.R.Anandharaj
Government Advocate

ORDER

This writ petition has been filed praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order in Na.Ka.No.366/2017/A1 dated 04.02.2017 on the file of the second respondent and quash the same as illegal and consequently directing the respondents to release the tipper lorry bearing registration No.TN-32-D-9698 which was seized on 09.01.2017.

2. The case of the petitioner is that the respondents have seized tipper lorry of the petitioner while the red sand was being transported for the purpose of agricultural activities. Stating all these facts, the petitioner sent a representation, an order of the respondents passed the impugned order, which is challenged in the present writ petition.



3. The learned Government Advocate would draw the attention of this Court to the typed set filed by the petitioner, wherein at page No.5, the petitioner has represented that she has removed the red sand without the permission from the respondents and therefore, she is willing to pay the penalty and based on the said fact, the impugned order came to be passed by the respondents directing the petitioner to pay a sum of Rs.80,000/- towards penalty. He further submitted that even assuming for a moment that the petitioner requires the sand for the purpose of agricultural activities, the petitioner has to obtain permission from the authorities concerned. That apart, there is an appeal provision available to the petitioner.

4. To the afore-said submission, learned counsel for the petitioner submitted that it is only a procedural defect, which the petitioner has failed to follow. He further submitted that the petitioner has not filed appeal so far as against the impugned order. However, she is ready to abide by any conditions to be imposed by this Court.

5. Heard the submissions made on either side and perused the materials available on record.

6. Considering the facts and circumstances of the case, to meet the ends of justice, the following directions are issued:-

a. The petitioner is granted liberty to file an appeal before the appellate authority on depositing a sum of Rs.20,000/- within a period of two weeks from the date of receipt of a copy of this order, failing which, the interim relief granted to this petitioner shall stand dismissed without further reference to this Court.

b. On depositing such amount, the vehicle shall be released to the petitioner on condition that the petitioner will not repeat such activities in future and further, the petitioner shall not alter or sell off the vehicle until the proceedings are over before the second respondent.

c. After complying with the first condition, the second respondent is directed to dispose of the appeal to be preferred by the petitioner within a period of four weeks from the date of filing an appeal by the petitioner.

d. At the time of entertaining the appeal, the second respondent shall exclude the period of limitation and dispose of the said appeal, on merits and in accordance with



With the afore-said direction, the order impugned in this writ petition stands modified. Accordingly, this writ petition is disposed of. No costs.

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/True Copy/

Sd/-

Assistant Registrar(CS-III)

Sub Assistant Registrar

To,

1.The District Collector,
District Collectorate,
Dindigul District.

2.The Assistant District Collector,
District Collectorate,
Dindigul District.

+1 cc to MR.M.M.Iqpal ADVOCATE, SR No. 14769

+1 cc to Special Government Pleader, SR No. 15125

W.P(MD)No.4012 of 2017
15.03.2017

ssm

MKV-SV-MMS/22.3.2017/3P-5C