

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.3355 of 2018

and

W.M.P.No.4105 of 2018

The Divisional Controller,
KSRTC, Chikkaballapura Division,
Chikkaballapura - 562101
Karnataka.

.. Petitioner

Vs.

1. The Motor vehicle Officer/
The Regional Transport Officer,
Vellore Region, Sathuvacherry,
Vellore,
Tamil Nadu - 632 009.

2. The Inspector of Police,
Katpadi Police Station,
Vellore District.

.. Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents herein to release the petitioner Corporation Vehicle bearing Registration No.KA-40-F-1425 seized by the 1st respondent and kept in the 2nd respondent Police Station in terms of the representations sent by the petitioner to the 1st respondent on 05.02.2018 and 08.02.2018 respectively and on terms and conditions.

For Petitioner : Mr.T.Thiyagarajan

For Respondents : Mr.R.Govindasamy,
Special Government Pleader.

O R D E R

The petitioner is seeking for a Mandamus directing the respondents to release the petitioner's Corporation vehicle bearing Registration No.KA-40-F-1425 seized by the first respondent and kept in the second respondent Police Station in

terms of the representations dated 05.02.2018 and 08.02.2018.

2. The petitioner is Karnataka State Road Transport Corporation. The subject matter bus owned by the said Corporation was detained by the first respondent on 27.01.2018. According to the petitioner, such detention was without any valid reason. It is the further case of the petitioner that the subject matter bus was hired to ply from Devanahalli to Melmaruvathur as a contract carriage with valid permit and therefore, there is no question of payment of any tax arises, in this case, to the Tamilnadu Government.

3. When the matter was taken up for admission on 15.02.2018, the learned Special Government Pleader took notice for the respondents and sought time to get instructions. Accordingly, it is listed today for further hearing. The learned Special Government Pleader, based on instruction, submitted that the subject matter vehicle was plied without valid spare permit and thus, violated the permit conditions. It is also stated that as per Schedule IX (c) (ii), tax at the rate of 1500 per seat per month has to be paid by the petitioner which comes to Rs.82,500/-. Therefore, it is stated that a show cause notice was already issued on 12.02.2018 and the petitioner has not replied to the show cause notice so far.

4. On the other hand, the learned counsel for the petitioner submitted that the petitioner is not liable to pay any tax as they are protected under G.O.Ms.No.894 Home Transport Department dated 29.05.1991. However, such contention was disputed by the learned Special Government Pleader by stating that the said G.O. is applicable only when the vehicle was put into operation as such as the Government transport vehicle and not when it was hired by the private individuals as a contract carriage.

5. This Court, at this stage, is not inclined to go into the rival contentions of either parties, since it is for the petitioner to give their explanation to the show cause notice dated 12.02.2018 and thereafter to proceed with in accordance with law before the appropriate authorities. However, as the vehicle was detained as early as on 27.01.2018, this Court is of the view that without prejudice to the contentions of either parties, the same may be released, subject to the conditions which will protect the interest of both parties. Accordingly, this writ petition is disposed of in the following terms:

(a) The petitioner shall pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) to the first respondent within a period of seven days from the date of receipt of a copy of this order, without prejudice to their contentions to be raised in the reply to the said show cause notice.

(b) On receipt of such payment, the respondents shall release the vehicle to the petitioner forthwith.

(c) It is open to the petitioner to reply to the show cause notice and raise all the contentions therein.

(d) This Court is not expressing any view on the merits of the contentions raised by both parties as it is for the petitioner to work out their remedies in the appropriate proceedings pursuant to the issuance of such show cause notice. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Motor vehicle Officer/
The Regional Transport Officer,
Vellore Region, Sathuvacherry,
Vellore,
Tamil Nadu - 632 009.
2. The Inspector of Police,
Katpadi Police Station,
Vellore District.

+2cc to Mr.T.Thiyagarajan, Advocate, S.R.No.12032

सत्यमेव जयते

W.P.No.3355 of 2018

MR (CO)
RRK(16/02/2018)

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