

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.12.2018

CORAM:
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.30702 of 2018
WMP.No.35815 of 2018

G.Giriprasath

..Petitioner

Vs

- 1.The Revenue Divisional Officer, Tiruvallur
 - 2.The District Collector, Tiruvallur
 - 3.The Executive Engineer and ADO, Thirumazhisai Satellite
Town Division, Tamil Nadu Housing Board, No.792,
TKSPM Towers, 1st Floor, Trunk Road, Poonamallee, Chennai-56
 - 4.The Superintendent of Police, Tiruvallur
(R4 Suo Motu impleaded vide court order
dated 29/11/2018 made in WP 30702/18
- ..Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the Respondents 1 and 2 to release the Petitioner's Tipper Lorry, bearing Reg.No.TN-05-W-5490, which was illegally seized by the 1st Respondent on 15.09.2018 and kept at Tahsildar's Office at Poonamallee.

For Petitioner :Mr.G.A.Thiyagarajan

For Respondent :Mr.M.Karthikeyan, AGP for RR1 & 2 & 4
Mr.V.Anandhamurthy, SC for R3

ORDER

The prayer in this Writ Petition is to direct the Respondents 1 and 2 to release the Petitioner's Tipper Lorry, bearing Reg.No.TN-05-W-5490, which was illegally seized, for having transported sand illegally, by the 1st Respondent, on 15.09.2018.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. The grievance of the Petitioner is that there is no specific directions given by the Respondent Department to the concerned Revenue Officials and to all the Districts to comply

with the above said order of the Division Bench of the Madurai Bench of this Court. Therefore, the Petitioner is unable to approach the concerned Court, seeking release of the vehicle in question since the Authority has not forwarded the First Information Report to the concerned Station House Officer.

4. By an interim order dated, 29.11.2018 in WP.Nos.30700 and 30702 of 2018, this Court had directed the learned Additional Government Pleader for the Respondents to get appropriate instructions from the Government in respect of issuing appropriate circulars to the Revenue Authorities, in the light of the directions passed by the Division Bench of the Madurai Bench of this Court in WP(MD)Nos.19936 of 2017, by order dated, 29.10.2018 and also regarding due publicity to the public in the prominent places for awareness of making their complaints before the Taluk Committee and the District Committee, for transporting illegal sand.

5. Today, when the matter is taken up for hearing and final disposal, the learned Additional Government Pleader for the Respondents has produced a Circular in D.O.Letter No.8981/MM6/2018, issued by the Director of Department of Geology and Mining, wherein the directions of this Court dated 29.10.2018 made in WP(MD)No.19936 of 2017, have been incorporated and the said directions are extracted as under:-

(i)The District Level Task Forces and Taluk Level Task Forces, constituted pursuant to the order passed in WP(MD)No.9806 of 2018 should follow the G.O.(Ms)No.135 Industries (MMA.1) Department, dated 13.11.2009 in letter and spirit.

(ii)As stated in the above said Government Order, periodical meetings will have to be held followed by Revenue which is inclusive of action taken/to be taken for the illicit mining.

(iii)Steps will have to be taken for dereliction of the duty by the concerned officials.

(iv)Taluk Level Task Forces shall also comply with the directions issued in the Government Order by making frequent surprise checks and submit their report to the District Level Task Forces.

(v)The Taluk Level Task Forces shall meet every fortnight as mandated in the Government Order.

(vi)The responsibility fixed in the Government Order will have to be strictly construed and action will have to be taken against the erring Village

Administrative Officer, Tahsildar, Officer in-charge of Department of Geology and Mining at District Level.

(vii) Action taken report will have to be sent by the District Collector concerned for the purpose of taking necessary action. The District Collector concerned shall take appropriate departmental action by himself as when Rules provide so.

(viii) Separate records will have to be maintained by the Village Administrative Officer, Tahsildar and Officer in-charge of the Department of Geology and Mining with respect to the cases involving illicit mining.

(ix) As and when illicit mining is reported, the same will be recorded in the records.

(x) The respective District Collectors will have to ensure by making wide publicity of phone particulars assigned to the District Level Task Forces and the Taluk Level Task Forces, so that, the general public can give their complaints. There should be affixture or display of the phone particulars in the Collectorate, Taluk office, Office of Deputy Director and Assistant Director of Geology and Mining and that of the Village Administrative Officer.

(xi) Complainant will have to be intimated on the action taken within a period of one week from the date of receipt of the complaint. A complaint shall also be received even when made through phone calls.

(xii) Complaints by an authorised person under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 or to be made immediately and not later than one week from the date of seizure.

(xiii) Whenever, a final report is filed for the offence under Section 379 IPC by the jurisdictional police before the jurisdictional Magistrate, the same shall also be committed to the Special Court. This is for the reason that it would be appropriate to deal with both the police case and the private complaint by the same Court and in order to avoid any possible conflict.

(xiv) The revenue officials at the time of seizure can issue a memo to the person in-charge of the vehicle, mineral among other things, indicating the seizure made, along with the date and time.

(xv) In so far as the seized vehicles are concerned, they shall be produced before the concerned Magistrate Court by the revenue authorities at the time of filing their respective complaints.

(xvi) Any application for release of vehicle etc., can only be filed before the Special Court above.

(xvii) Any violation of the above would constitute a contempt of the order passed by this Court, for which, appropriate application can either be filed before the First Bench of this Court or any other Bench as per the direction of the Hon'ble Chief Justice."

6. In and by the said circular, it is informed that all the District Collectors shall convene a meeting of Subordinate Officials, viz., Revenue, Police and Mines and inform the directions of this Court and instruct to follow the said directions without any deviation and also file their respective action taken reports in this regard.

7. In the light of the said Circular and the said directions of the Division Bench of the Madurai Bench of this Court, the concerned Authorities shall strictly comply with the directions of the orders passed by this Court and as well as the circular issued by the Department. Further, the Department is also directed to make wide publicity to the public with all details in the prominent places, namely, Taluk Office, Police Stations, Revenue Offices and such other prominent places, for awareness of making their complaints before the Taluk Committee and the District Committee regarding illegal transport of sand.

8. In so far as the present case on hand is concerned, according to the learned Additional Government Pleader for the Respondents, a First Information Report has been registered in FIR.No.1388, dated 6.12.2018, for the offences under Sections 379, 430 and 21 of IPC, on the file of the Poonamallee Police Station and a copy of the same has also been served to the learned counsel for the Petitioner.

9. In view of the above, this Court is of the view that no further order is necessary to be passed in this Writ Petition. However, the Petitioner is at liberty to seek appropriate remedy before appropriate forum.

10. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, the connected MP is closed.

11. Post the matter on 04.01.2019 for reporting compliance.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Srcm

To

- 1.The Revenue Divisional Officer, Tiruvallur
- 2.The District Collector, Tiruvallur
- 3.The Executive Engineer and ADO
Thirumazhisai Satellite Town Division
Tamil Nadu Housing Board, No.792,
TKSPM Towers,1st Floor, Trunk Road, Poonamallee
Chennai-56
- 4.The Superintendent of Police, Tiruvallur
- 5.The Director, Geology and Mining Department, Tiruvallur.
- 6.The Poonamallee Police Station, Chennai.
- 7.The Section Officer,
Writ Section,
Madras High Court, Madras (For Posting on 04/01/2019 for
Reporting Compliance).
- 8.The Tahsildar,
Poonamallee,
Chennai.

+lcc to Mr.V.Anandha Murthy, Advocate, S.R.No.86916

+lcc to Mr.G.A.Thiyagarajan, Advocate, S.R.No.86947

rrs 04/01/2019

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