

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 1376 OF 2019

ESS Infraproject Pvt. Ltd. & Ors.

.. Petitioners

v/s.

The State of Maharashtra & Anr.

.. Respondents

Mr. Sangram Lotankar for the petitioners

Mr. A.L. Patki, Addl. G.P. for the respondent – State

**CORAM : A.S. OKA &
M.S. SANKLECHA, J.J.**

DATED : 26th APRIL, 2019

P.C.

1. Not on Board. Taken on Board.

2. Rule. The learned AGP waives service for the respondents. The Division Bench of this Court vide order dated 3rd March 2004 passed in a Notice of Motion taken out in Writ Petition No.1762/1999 issued a direction to phase out eight years old transport vehicles from the city of Mumbai unless the same are converted to run either on CNG or LPG. A direction was also issued that if in breach of the direction any transport vehicle is found plying within the limits of Mumbai, the same shall be immediately impounded by the Regional Transport Office or by the

Traffic Office.

3. It is not in dispute that the petitioners are the owner of the subject transport vehicle and the said vehicle was found plying within the limits of city of Mumbai though the said vehicle was eight years old and though it was not converted to run either on CNG or LPG.

4. The learned counsel appearing for the petitioners submits that the petitioners are willing to give an undertaking as provided in the orders passed by this Court in similar matters and is willing to deposit a reasonable amount. The learned counsel appearing for the petitioners submits that as in the case of the order, a copy of which is annexed at Exhibit-E to the petition, a reasonable amount be fixed. The learned AGP relies upon the order dated 28th March 2012 passed in Writ Petition No.10504/2011 and the order dated 22nd November 2018 passed in Writ Petition No.8921/2018 wherein the amount of penalty is quantified at Rs.50,000/-.

5. Considering the fact that the petitioners have committed a breach of the order passed on 3rd March 2004 in March, 2019, the amount will have to be quantified at Rs.50,000/-.

Hence, we pass the following order:

ORDER

- (i) The vehicle subject matter of this petition described in paragraph-3(I) of the petition shall be released to the petitioners subject to the following conditions:
 - (a) The petitioners filing an undertaking before this Court to the effect that the vehicle shall not be plied in the city of Mumbai and shall be taken out of the city of Mumbai; and
 - (b) The petitioners depositing a sum of Rs.50,000/- in the Regional Transport Office at Wadala, Mumbai.
- (ii) Only upon the deposit of a sum of Rs.50,000/- by the petitioners with the aforesaid Regional Transport Office and his producing a copy of the undertaking filed in this Court, the vehicle shall be released to the petitioners on production of an authenticated copy of this order;
- (iii) Rule is made absolute in the above terms.
- (iv) All concerned to act on an authenticated copy of this order.

(M.S. SANKLECHA, J.)

(A. S. OKA, J.)