

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P No.23534 of 2019
and
W.M.P No.23347 of 2019

BTI Payments Private Limited
Rep. by its Authorised Signatory
S.Venkatkrishnan
Having its Corporate Office at
B-8th Floor, Diamond District
150, Old Airport Road
Bangalore-560 008.

...Petitioner

.Vs.

- 1.The Chief Electoral Officer
Public (Elections X) Department,
Secretariat, Chennai-600 009.
- 2.The District Election Officer cum Collector
Dharmapuri District
Salem Main Road,
Dharmapuri-636 705.
- 3.The Executive Magistrate
Assistant Engineer,
Public Works Department-Irrigation Section
and Flying Squad I
M.Mohana Priya, in the cadre of
Executive Magistrate
Dharmapuri Taluk and District-636 705.
- 4.Project Director
District Rural Development Agency
Dharmapuri District
Salem Main Road,
Dharmapuri-636 705.
- 5.Divisional Revenue Officer
Nallampalli
Dharmapuri District
Dharmapuri- 636 807.
- 6.Inspector of Police
Adhiyamankottai, Nallampalli Taluk
Dharmapuri District-636 705.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the 6th Respondent in FIR No.192 of 2019 and quash the same and consequently directing the 2nd Respondent, the District Collector cum Election Officer, Dharmapuri District to return the seized sum of Rs.5.32 Crores on 5th April 2019 by the 3rd Respondent on furnishing any security before the jurisdictional Judicial Magistrate-2, Dharmapuri.

For Petitioner : Mr.M.Kempuraj

For 6th Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This writ petition has been filed seeking to quash the FIR registered in Crime No.192 of 2019 and consequently to direct the 2nd respondent to return back the amount that was seized from the petitioner on 05.04.2019.

2.The petitioner is an authorised White Label ATM (WLA) operator and a proper license has been given by the Reserve Bank of India to the petitioner to carry on with the said operation. The nature of work that is carried on by the petitioner is such that the petitioner will have to withdraw amounts from various banks and load the same at various ATM centres across the State / Country.

3. On 05.04.2019, the Special Squad that was formed at the time of election, intercepted a vehicle at Dharmapuri District and found the vehicle carrying cash to the tune of Rs.5,32,00,000/-. Since the persons who were travelling in the vehicle were not able to give a convincing reply regarding the source of money and the purpose for which it was carried in the vehicle, the entire amount was seized and an FIR came to be registered under Section 102 of Cr.P.C. This FIR was registered on 30.05.2019, eventhough the money was seized on 05.04.2019.

4. The learned counsel for the petitioner submitted that the petitioner company, on 04.04.2019 had requisitioned Axis Bank for a sum of Rs.5 Crores and Federal Bank for a sum of Rs.1 Crore and the entire amount was received during the course of the day. Out of this amount, Rs.68 Crores was uploaded in the ATM Centres at Salem District and the balance amount of Rs.5.32 Crores was vaulted at the authorized centre at Salem. The next day, this was taken to Dharmapuri and Krishnagiri Districts in order to upload the same in the ATM Centres.

5. The learned counsel submitted that when money was taken in the vehicle for this purpose, the vehicle was intercepted by the flying squad. The learned counsel submitted that the petitioner has all the details regarding the source of money and also the purpose for which the same was carried in the vehicle. Therefore, a representation was made to the 2nd respondent on 30.05.2019 giving a detailed explanation and a request was made to release the cash of Rs.5.32 Crores which was already taken to the Treasury.

6. The learned counsel submitted that the petitioner company is incurring severe losses in view of the fact that the amount has been locked for the last four months and the petitioner is forced to pay interest every day.

7. The learned Additional Public Prosecutor appearing on behalf of the 6th respondent submitted that the FIR itself came to be registered only based on the complaint given by the concerned Election Officer. The learned counsel further submitted that it is the 2nd respondent, who has to take a decision regarding the release of the amount since he was the District Election Officer during the relevant point of time. The learned counsel submitted that if ultimately, the petitioner company is able to satisfy the 2nd respondent regarding the source of money and also the purpose for which it was taken in the vehicle, the 2nd respondent will take an appropriate decision and if the money is released, the respondent police will also close the FIR by getting an appropriate report from the authority.

8. This Court has carefully considered the submissions made on either side and also the materials available on record.

9. The contentions raised by the learned counsel and the materials placed before this Court, prima facie establishes the fact that the petitioner company is an authorized dealer to upload cash at various ATM centres by withdrawing money from various banks. The Reserve Bank of India has granted necessary license to the petitioner for this purpose. There is also a prima facie material to establish the fact that money was withdrawn from two banks on 4th April 2019 and a sum of Rs.5.32 Crores was carried in the vehicle in order to upload the said cash at ATM Centres situated at Dharmapuri and Krishnagiri Districts.

10. In view of the above, there shall be a direction to the 2nd respondent to immediately act upon the representation made by the petitioner on 30.05.2019 by calling the petitioner for an enquiry. The petitioner shall submit all the relevant documents before the 2nd respondent and the 2nd respondent after

satisfying himself regarding the source of money and the purpose for which it was taken in the vehicle, shall take an appropriate decision to immediately release the amount to the petitioner. The action taken by the 2nd respondent shall thereafter be informed to the 6th respondent, who is the Inspector of Police of the concerned police station and the 6th respondent shall act upon the report and close the FIR. This process shall be completed by the 2nd respondent within a period of two weeks from the date of receipt of copy of this order.

11. This Writ Petition is disposed of with the above directions. No cost. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

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6.The Inspector of Police
Adhiyamankottai, Nallampalli Taluk
Dharmapuri District-636 705.

7.The Public Prosecutor
High Court of Madras.

+2cc to Mr.M.Kempuraj Advocate, S.R.No.74834,73978

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and
W.M.P No.23347 of 2019

RSV(CO)
CB(05/09/2019)