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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.13475 of 2019

C.Periyasamy ... Petitioner

Vs.

1. The Assistant Director,
   Geology and Mining,
   Karur District, Karur.

2. The Revenue Divisional Officer,
   Revenue Divisional Office,
   Karur, Karur District.

3. The Tahsildar,
   Tahsildar Office,
   Karur Taluk, Karur District.

4. The Village Administrative Officer,
   Karudaiyampalayam Village,
   Karur.

5. The Inspector of Police,
   K.Paramathi Police Station,
   Karur District. ... Respondents

PRYAER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the 1st respondents to release the petitioner's Tipper Lorry Vehicle bearing Registration No.TN-30-AZ-5194 from their custody and to hand over the possession of vehicle to the petitioner.

For Petitioner : Mr.B.Senthilkumar
For Respondents : Mr.S.Angappan
Government Advocate

ORDER

The petitioner is the owner of a **Tipper Lorry** (in short 'vehicle') bearing Registration No.TN-30-AZ-5194 and claims to use the same for carrying goods as common carrier. On 27.05.2019, the vehicle was seized by the Village Administrative Officer, Karudaiyampalayam, Karur District and his sub-ordinates on the ground that it was transporting sand without a valid license. The vehicle is presently in the custody of the second respondent.

2. According to the petitioner, the above allegation is incorrect and his stand will be vindicated in the course of enquiry, that is, according to the learned Government Advocate, who appears for all the respondents, presently on-going.

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3. It is represented that a case in Crime No.105 of 2019 has been registered by the fifth respondent police.

4. Pending enquiry, I am of the view that the vehicle should be handed back to the possession of the petitioner for the reason that the respondents are not in a position to protect the same against the onslaught of the elements.

5. The 2nd respondent is directed to release the vehicle forthwith and in any event within a period of one week from today strictly subject to the satisfaction of the following conditions:-

i. The petitioner is directed to remit a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** to the first respondent for deposit into the District Mineral Foundation Trust that has been constituted under the aegis of the first respondent;

ii. The petitioner is directed to file an affidavit of undertaking within three days from today to the effect that he is the owner of the vehicle, he will cause production of the vehicle in question before the competent/concerned respondent (as the case may be) as and when called for and that he will not alienate the vehicle in question till the enquiry initiated is completed;

iii. The petitioner is directed to co-operate in the enquiry to the fullest;

iv. The first respondent/Assistant Director and Revenue Divisional Officer are directed to pass final orders in the adjudication proceedings, if any, within a period of forty five (45) days from today.

6. A Division Bench of this Court has, on 29.10.2018 issued a series of detailed directions to the concerned authorities targeted at containing illegal sand mining as well as measures to address and prevent such acts. The same are extracted hereunder:-

> *"(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 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.*

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(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 per the Rules provided 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 vide publicity of phone particulars assigned to the District Level Task Forces and the Talk 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 are 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 alone.

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(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."

7. Directions No:(xiii) & (xvi) above provide for action to be taken before / by the Special Court, that is, as confined by the same Division Bench on 11.01.2019 in a batch of writ petitions (W.P.(MD)No.22023 of 2018 (batch)), yet to be constituted. Till such time the Special Courts are constituted, release of the seized vehicles may be sought before this Court in terms of Article 226 of the Constitution of India.

8. This Writ Petition is disposed in the above terms. No costs.

sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS)

To
1.The Assistant Director,
Geology and Mining,
Karur District, Karur.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Karur, Karur District.

3.The Tahsildar,
Tahsildar Office,
Karur Taluk, Karur District.

4.The Village Administrative Officer,
Karudaiyampalayam Village,
Karur.

5.The Inspector of Police,
K.Paramathi Police Station,
Karur District.

6. The Officer In-Charge,
District Mineral Foundation Trust,
Karur District

+1 CC to Mr.B.SENTHIL KUMAR, Advocate (SR-68735[F] dated 14/06/2019)
+1 CC to SPL GP (SR-69232[F] dated 17/06/2019)

W.P(MD)No.13475 of 2019
14.06.2019

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