

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.5708 of 2020

S.Venkateswari

: Petitioner

vs.

The Regional Transport Officer,
Chennai West,
Chennai - 600 078.

: Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to release the All India Contract Carriage Omni Bus bearing Registration No.PY 01 CP 2047 which is now kept at the test ground, K.K.Nagar, attached to the officer of the Respondent, to the petitioner.

For Petitioner : Mr.S.Govindraman
For Respondents : Mr.K.Parameswaran
Government Advocate

सत्यमेव जयते
O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the respondent to release the vehicle that is now being detained by the respondent.

2.The case of the petitioner is that she is engaged in Transport business and she is holding All India Contract Carriage Omni Bus permit. The vehicle owned by the petitioner was intercepted by the authorities on the ground that the vehicle was plying without payment of tax to the State of Tamil Nadu. Pursuant to the same, the vehicle has been detained from 20.01.2020 onwards.

3.The learned counsel for the petitioner submitted that the petitioner is willing to pay the tax for the period of seven days with penalty. But however, the respondent is demanding for payment of tax for a period of 30 days with penalty. The learned counsel submitted that this issue can be independently resolved under Section 207 of the Motor Vehicle Act, 1988. In the meantime, the petitioner is seeking for the release of the vehicle and the learned counsel submitted that any condition can be imposed for the purpose of release of vehicle.

4.The learned Government Advocate appearing on behalf of the respondent submitted that the petitioner can be directed to deposit the tax that is due and payable and thereafter, the vehicle can be released.

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

6.This Court had an occasion to deal with a similar issue in W.P.No.758 of 2016, dated 07.01.2016. The relevant portions in the order are extracted hereunder:

6. On the other hand, learned Government Advocate, appearing for the respondents, would submit, that once a vehicle is seized or detained by the authority, the owner of the vehicle has to submit an application under Section 207 (2) of the Motor Vehicles Act before the authority concerned, and the said authority, after verification of all necessary documents, will order for release of the said vehicle.

7. At this juncture, learned counsel for the petitioner would submit, that the petitioner has filed an application for release of the vehicle under Section 207 (2) of the Motor Vehicles Act before the authority concerned on 05.01.2016, and, apart from that, the petitioner is also willing to file an affidavit of undertaking, to the effect, that he will not alienate the said vehicle and will also produce the same as and when required by the respondents.

8. It is a well settled proposition of law, that for violation of the permit conditions, the authorities concerned are entitled to take action as per the rules and regulations, for cancellation of permit. It is also seen from Section 207 of the Motor Vehicles Act, that on production of relevant documents by the owner of the seized vehicle, it is the duty of

the authority concerned, to consider the release of the seized vehicle.

9. Under the circumstances, the respondents are directed to release the vehicle of the petitioner, bearing No.TN-29/AS-9955, forthwith, on filing of an affidavit of undertaking by the petitioner, to the effect that he will produce the vehicle as and when required by the respondents, and will not alienate the same, without prior permission from the respondents; however, after verification of all the relevant documents produced by the petitioner. As far as violation of permit is concerned, it is open to the respondents to proceed against the petitioner in accordance with law.

7.This order was subsequently followed by a learned Single Judge of this Court in W.P.No.14356 of 2019, dated 16.05.2019.

8.The above order also applies to the facts of the present case. Authorities are entitled to take action as per the Rules for violation of permit conditions. The procedure to be followed is also provided under Section 207 of the Motor Vehicle Act, 1988. However, the vehicle is now getting exposed to heat and there are chances of the vehicle getting damaged. Therefore, the petitioner has approached this Court seeking for the release of vehicle.

9.Taking into consideration the facts and circumstances of the case, there shall be a direction to the respondent to release the vehicle of the petitioner bearing Registration No.PY 01 CP 2047, forthwith, on filing of an affidavit of undertaking by the petitioner, to the effect the she will produce the vehicle as and when required by the respondent, and will not alienate the same, without prior permission from the respondent. The petitioner shall also undertake to produce all the relevant records as and when required by the respondent. Insofar as the violation of permit is concerned, it is left open to the respondent to proceed independently against the petitioner in accordance with law.

10.This writ petition is disposed of with the above direction. No Costs.

Sd/-

Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

ssr

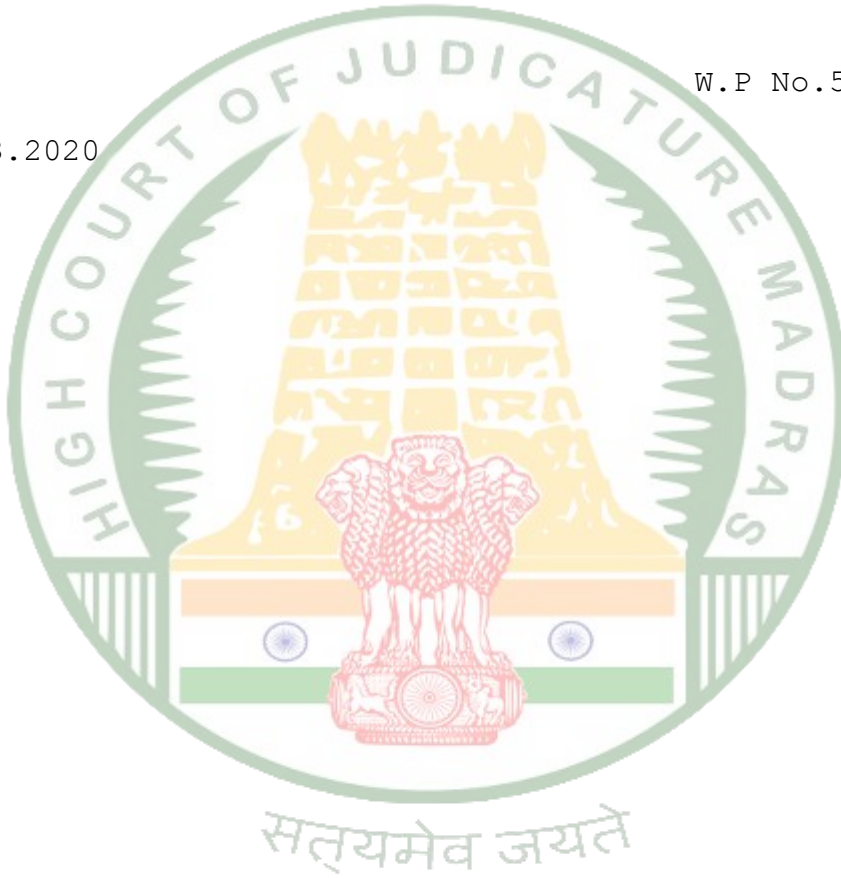
To

The Regional Transport Officer,
Chennai West,
Chennai - 600 078.

+1cc to Mr.S.Govindaraman, Advocate, SR.No.19193.
+1cc to Government Pleader, SR.No.19722.

NR(CO)
CSR: 05.03.2020

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