

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2020

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.7137 of 2020
and WMP.No.8509 of 2020

B.A. Musheer Ahamed ... Petitioner

vs.

The Regional Transport officer,
Chengalpattu. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent herein to release the petitioner's vehicle bearing Reg.No.TN-22/BR-2853 forthwith.

For Petitioner : Mr.K.Hariharan

For Respondent : Mr.E. Balamurugan
Special Govt. Pleader

ORDER

This writ petition has been filed for the issuance of a writ of mandamus directing the respondent to release the vehicle belonging to the petitioner.

2. The case of the petitioner is that he is the owner of a bus, which is covered under a private service vehicle permit. On 03.01.2020, the respondent had checked the vehicle and had seized the vehicle on the ground of violation of permit conditions. The petitioner has made a request to the respondent to release the vehicle and since the same was not acted upon, the present writ petition has been filed before this Court seeking for appropriate directions.

3. The learned counsel for the petitioner submitted that if the petitioner is found to have violated the permit conditions, it will always be open to the respondent to take action under Section 86 of the Motor Vehicles Act, 1988. The learned counsel further submitted that once a request has been made for the release of the vehicle, the same has to be considered in line with Section 207(2) of the Motor Vehicles Act, 1988. The learned counsel submitted that the representation was made on 21.02.2020 and till date the same has not been acted upon and the vehicle is exposed to rain and shine. The respondent must be directed to release the vehicle subject to conditions that can be imposed by the respondent. The learned counsel further brought to the notice of this Court to the earlier orders passed by this Court under similar circumstances.

4. The learned Special Government Pleader appearing on behalf of the respondent submitted that the petitioner had committed various violations of the permit conditions and according to the respondent, the petitioner has to pay a sum of Rs.3,30,000/- (Rupees Three Lakhs Thirty Thousand only) towards tax and he is also liable to pay a sum of Rs.12,500/- (Rupees Twelve Thousand Five Hundred only) towards penalty. The learned counsel therefore submitted that the petitioner must be directed to make these payments before the vehicle is released.

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

6. This Court is not inclined to go into the rival contentions made on either side with regard to the violation of the permit conditions. The respondent has to issue a show cause notice in that regard and the petitioner will have to reply and thereafter, the respondent has to pass orders in accordance with law.

7. The only issue that arises for consideration is whether the vehicle that has been seized as early as on 03.01.2020 will have to be kept in detention by the respondent. The vehicle has not been put to use and it has been exposed to rain and shine and this will ultimately diminish the value of the vehicle.

8. In the considered view of this Court, the vehicle can be directed to be released subject to certain terms and conditions and this will not prejudice the rights of both the parties.

9. Accordingly, the writ petition is disposed of with the following directions:

a) The petitioner shall produce all the relevant documents before the respondent in proof of his ownership.

b) On receipt of the documents, the respondent shall release the vehicle after getting an undertaking from the petitioner that he will not alienate the vehicle and that it will be produced before the respondent as and when required.

c) The respondent shall proceed further against the petitioner for the alleged violation of the permit conditions by issuing show cause notice and the petitioner shall reply for the same and final order shall be passed as expeditiously as possible.

No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

The Regional Transport officer,
Chengalpattu.

+1cc to Government Pleader, S.R.No.24582
+1cc to K.Hariharan, Advocate, S.R.No.24453

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GMR (CO)
KKV/24/03/2020

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