

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.08.2020

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.10306 of 2020
and WMP.No.12524 of 2020

P.K.Venkatesan

..Petitioner

vs

1.The Regional Transport Officer,
Perundurai.

2.The Regional Transport Officer,
Chengalpattu.

3.The Motor Vehicle Inspector, Grade I
Unit Office, Madurantagam 603 306.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to release the contract carriage omnibus bearing Registration NO.TN 37 BK 6900 with reference to the Check Report NO.A0448594 dated 03.09.2019 of the 2nd respondent to the petitioner which is presently impounded and kept in the office compound of the 2nd respondent.

For Petitioner : Mr.S.Govindraman

For Respondents : Mr.K.Parameshwaran,
Government Advocate

O R D E R

The Writ Petition has been filed for issuance of Writ of Mandamus directing the respondents to release the contract carriage omnibus which was intercepted by the 3rd respondent on 03.09.2019.

2. The case of the petitioner is that he is a holder of contract carriage omnibus permit and he is permitted to ply the vehicle in Tamil Nadu. The vehicle was plied towards Chennai from Perundurai on 03.09.2019 and it was intercepted by the 3rd respondent and a Check Report was filed on the ground that the vehicle was plying without original records. The vehicle was impounded and kept in the office of the 2nd respondent.

3. Further case of the petitioner is that the original Fitness Certificate of the vehicle expired on 12.11.2018 and it had not been renewed and therefore, the petitioner requested the 2nd respondent to release the vehicle subject to any conditions. Since the vehicle was not released, the present Writ Petition has been filed before this Court seeking for appropriate direction.

4. The learned counsel appearing for the petitioner submitted that the vehicle had been exposed to rain and shine and the vehicle can be released by the 2nd respondent by imposing conditions and if the vehicle continues to remain in the office of the 2nd respondent, the vehicle itself will be damaged beyond repair.

5. The learned counsel appearing for the petitioner also brought to the notice of this Court the earlier order passed by this Court in W.P.No.5708 of 2020 dated 04.03.2020 and the relevant portions of the order is extracted hereunder:

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.

6. Heard Mr.K.Parameshwaran, learned Government Advocate appearing on behalf of the respondents.

7. Facts of the present case is covered by the order in W.P.No.5708 of 2020 referred supra. Taking into consideration the facts and circumstances of the case, there shall be a direction to the 2nd respondent to release the vehicle of the petitioner bearing Registration No.TN 37 BK 6900, forthwith on the petitioner filing of an Affidavit of Undertaking to the effect that he will produce the vehicle as and when required by the respondents and he will not alienate the vehicle, without prior permission from the respondents. The petitioner shall also undertake to produce all the relevant records as and when required by the 2nd respondent. Insofar as violation of permit is concerned, it is left open to the respondents to proceed independently against the petitioner in accordance with law.

8. The Writ Petition is disposed of with the above directions. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

- 1.The Regional Transport Officer,
Perundurai.
- 2.The Regional Transport Officer,
Chengalpattu.
- 3.The Motor Vehicle Inspector, Grade I
Unit Office, Madurantagam 603 306.

+lcc to Government Pleader SR.No.26840

W.P.No.10306 of 2020

AL(CO)
GMY(17/08/2020)