



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.10772 of 2020

and

W.P. (MD) .No.9483 of 2020

WEB COPY

Bharathirajan

...Petitioner

Vs.

1.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.

2.The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order of the first respondent in 55-1/பறிமுதல்/கா.க.க./பொ/ம.வி.அ.பி/இராம/2020, dated 08.04.2020 and quash the same consequently directing the respondents to release the petitioner's vehicle in bearing registration No.TN-65-M-6096 within stipulated time to be fixed by this Court.

For Petitioner	:	Mr.B,Mahendrarajan
For Respondents	:	Mr.C.Ramar Government Advocate

ORDER

Heard the learned counsel on either side.

2. The petitioner challenges the confiscation order passed by the first respondent. It is seen that the petitioner is the owner of the petition mentioned vehicle. But it was involved in a criminal case arising under the Tamil Nadu Prohibition Act, 1937. The first respondent issued notice for confiscation. The petitioner gave his explanation. But without hearing him personally, the impugned order came to be passed. In normal circumstances, the order of confiscation is appealable before the Sessions Court. But this appeal remedy can be bypassed, if any statutory violation is evident on the very face of it.

3. The petitioner's counsel points out that Section 14 (4) of Tamil Nadu Prohibition Act, 1937, contemplates three stages before passing the confiscation order. In this case, stages 1 and 2 had been crossed. But then, requirement No.3 was not complied with.



Therefore, the order impugned in the Writ Petition is quashed on that ground. The Writ Petition is allowed. The matter is remitted to the file of the first respondent to pass orders afresh in accordance with law, after hearing the petitioner in person.

4. Now the question arises regarding the custody of the vehicle. The vehicle is a four-wheeler. Keeping the same in the station custody is not going to serve any purpose. Therefore, the first respondent is directed to return the vehicle to the petitioner herein immediately and without any delay. I make it clear that what I have ordered is only interim custody of the vehicle to the petitioner. It will not have any bearing on the confiscation proceedings. That can independently go on. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.

2.The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.

+1 CC to M/s.GP (SR-15987[F] dated 04/09/2020)

ORDER MADE IN
W.P. (MD) .No.10772 of 2020
03.09.2020

AP(15/09/2020) 2P 4C

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