



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

**W.P. (MD)No.15348 of 2020**

**and**

**WMP (MD)No.12896 and 12897**

Selvanayagam

... Petitioner

Vs

1.The Additional Superintendent of Police,  
Ramanathapuram District, Ramanathapuram.

2.The Inspector of Police,  
S.P.Pattinam Police Station, Ramanathapuram District.

3.The Tahsildar,  
Thiruvadanai Taluk,  
Ramanathapuram District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in his proceedings in 91-1/Parimuthal/Kaa.Koo.Kaa/Po/Ma.Vi.Aa.Pi/Erama/2019, dated 03.04.2020 and quash the same as illegal and consequently directing the first respondent to release the petitioner's Tata Indica Car bearing Registration No.TN-38-AR-7836, seized by the third respondent on 26.08.2019.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.C.Ramar  
Additional Government Pleader

**ORDER**

**(This Petition was heard through the Video Conferencing)**

This writ petition has been filed challenging the confiscation order, dated 03.04.2020, passed by the first respondent under Section 14(4) of the Tamil Nadu Prohibition Act, 1937.

2. Mr.C.Ramar, learned Additional Government Pleader accepts notice on behalf of the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the



admission stage itself.

3. Heard Mr.T.Lenin Kumar, learned counsel appearing for the petitioner and Mr.C.Ramar, learned Additional Government Pleader appearing for the respondents.

WEB COPY

4. According to the petitioner, the confiscation order has been passed against him without authority under law. It is contended by the learned counsel appearing for the petitioner that no notice has been given to him before passing the confiscation order. Further, it is contended by the learned counsel appearing for the petitioner that the vehicle which was carrying three persons at the time of seizure under the Tamil Nadu Prohibition Act, 1937, was carrying liquor only within the permissible limits, as per the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996. It is the case of the petitioner that 36 bottles of IMFL (Each containing 180ml) totally 6.480 Litres, were seized by the second respondent, which were used for personal consumption and it is within the permissible limits, as prescribed under the aforementioned Rules. Under such circumstances, this Writ Petition has been filed challenging the confiscation order passed by the first respondent. Section 14(4) of the Tamil Nadu Prohibition Act, 1937, reads as follows:-

"14.(1)...

14(.2)...

14.(3)...

14.(4).Notwithstanding anything contained in Sub-Sections (1) to (3), the Collector or other Prohibition Officer in charge of the District or any other officer authorised by the State Government in that behalf is satisfied that an offence has been committed against this Act and whether or not a prosecution is instituted for such offence, he may, without prejudice to any other punishment to which the offender is liable under this Act, order confiscation of any animal, vessel, cart or other vehicle used in the Commission of such offence:

Provided that, before passing an order of confiscation, the owner or the person from whom such animal, vessel, cart or other vehicle is seized, shall be given-

(i) a notice in writing informing him of the grounds on which it is proposed to confiscate the animal, vessel, cart or other vehicle;

(ii) an opportunity of making a representation in writing within a reasonable time, not exceeding fourteen days, as may be specified in the notice, against the grounds of confiscation ; and



(iii) a reasonable opportunity of being heard in the matter:

Provided further that the owner or the person from whom such animal, vessel, cart or other vehicle is seized shall be given on option to pay, in lieu of its confiscation, an amount not exceeding the market price of such animal, vessel, cart or other vehicle.

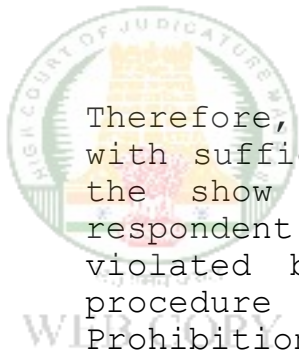
(5)Any person aggrieved by an order of confiscation under Sub-Section (4) may, within one month from the date of the receipt of such order, appeal to the Court of Sessions having jurisdiction)"

5. The confiscation order has been passed under Sub Section 4 of Section 14 of the Tamil Nadu Prohibition Act, 1937. As seen from the said clause, a notice in writing informing the grounds on which the respondents are proposing to confiscate the vehicle, is required to be given and an opportunity should also be given to the person from whom the vehicle has been seized to give his explanation in writing, within a reasonable time not exceeding 14 days for objecting to the confiscation. A reasonable opportunity of being heard should also be given to the person from whom the vehicle has been seized.

6. This Court has perused and examined the impugned order of confiscation passed by the first respondent under Section 14 (4) of the Tamil Nadu Prohibition Act, 1937.

7. As seen from the impugned order, even though notice has been given to the petitioner about the proposed confiscation by the first respondent on 12.03.2020 and an explanation was also given by the petitioner to the said show cause notice on 19.03.2020 and the impugned order has not considered the submission made by the petitioner that liquor seized from the vehicle was for personal consumption and it is within the prescribed limits. Further, no personal hearing has been afforded to the petitioner as seen from the confiscation order. Section 14(4) of the Tamil Nadu Prohibition Act, 1937, makes it clear that apart from issuing notice to the person from whom the vehicle was seized, he should be afforded with sufficient opportunity to raise all contentions with regard to the issues raised in the show cause notice.

8. The Tamil Nadu Liquor (Possession of Personal Consumption) Rules, 1996, prescribes the maximum quantity of liquor that can be carried for personal consumption in a vehicle. According to the petitioner, 36 liquor bottles seized by the respondent, are within the permissible limits. These factors have not been considered under the impugned confiscation order.



Therefore, it is clear that the petitioner has not been afforded with sufficient opportunity to raise all contentions with regard to the show cause notice, dated 12.03.2020 issued by the first respondent. Therefore, principles of natural justice have been violated by the first respondent, as he has not followed the procedure contemplated under Section 14 (4) of the Tamil Nadu Prohibition Act, 1937, before issuing the confiscation order.

9. For the foregoing reasons, the impugned order, dated 03.04.2020 passed by the first respondent, is hereby quashed and the matter is remanded back to the first respondent for fresh consideration and the first respondent shall pass final orders on merits and in accordance with law, after affording sufficient opportunity to the petitioner, to raise all contentions including granting him the right of personal hearing, within a period of twelve weeks from the date of receipt of a copy of this order.

10. Since the impugned order has been quashed and the vehicle is kept in the open place, which may resulting the vehicle becoming a wreck, interim release of the vehicle will have to be granted to the petitioner, subject to the fulfillment of the following conditions:-

(i)the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** in favour of the third respondent within a period of two weeks from the date of receipt of a copy of this order.

(ii)the petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.

(iii)the petitioner shall not change the colour and scheme of the vehicle.

(iv)the petitioner shall not use the vehicle for any illegal activities.

(v)before releasing the vehicle, the police authority shall take photographs of the vehicle at the cost of the petitioner.

(vi)The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the third respondent.

(vii)As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.

11. Upon completion of the above mentioned formalities, the respondents shall release the petitioner's vehicle i.e., Tata Indica Car bearing Registration No.TN-38-AR-7836, to the petitioner forthwith and without any delay. If the undertaking given by the petitioner is breached, the petitioner will not be entitled for interim release of the vehicle in the future.



12. The Writ Petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected Writ Miscellaneous Petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (CS III)

// 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,  
Ramanathapuram District, Ramanathapuram.
- 2.The Inspector of Police,  
S.P.Pattinam Police Station, Ramanathapuram District.
- 3.The Tahsildar,  
Thiruvadanai Taluk,  
Ramanathapuram District.

+1 CC to M/s.GP ( SR-21313[F] dated 05/11/2020 )

**W.P. (MD)No.15348 of 2020**

**04.11.2020**

—  
tsg(CO)

**KK(09.11.2020) 5P 5C**