



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.16330 of 2020

and W.M.P. (MD) .No.13646 of 2020

WEB COPY

Revathi

.. Petitioner

Vs

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Sub Collector,
Cheranmahadevi,
Tirunelveli District.

3.The Assistant Director,
Mines Department,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents 1 to 3 from seizing the petitioner's vehicle, Tipper Lorry bearing Registration No.TN-69-B-9772.

For Petitioner : Mr.N.Mohideen Basha
For Respondents : Mr.C.Ramesh
Special Government Pleader

ORDER

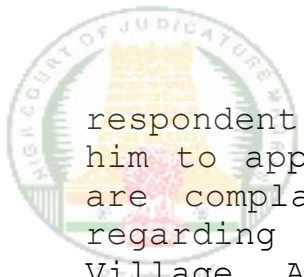
(This writ petition is heard through video conference)

This writ petition has been filed for a Mandamus forbearing the respondents 1 to 3 from seizing the petitioner's vehicle namely Tipper Lorry bearing Registration No.TN-69-B-9772.

2.Heard Mr.N.Mohideen Basha, learned counsel appearing for the petitioner and Mr.C.Ramesh, learned Special Government Pleader, appearing for the respondents.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

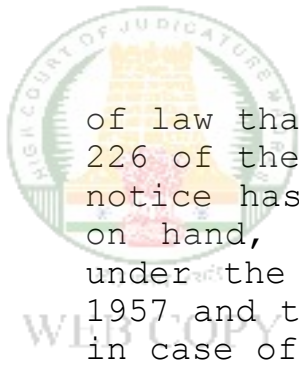
4.It is the case of the petitioner that she is the owner of the Tipper Lorry bearing Registration No.TN-69-B-9772. According to him, she is having Goods Carriage Permit and operating the said vehicle in accordance with law. It is her case that the second



respondent issued an enquiry notice dated 06.10.2020 and directed him to appear for enquiry on 12.10.2020 on the ground that there are complaints about the Company by name Boomi M-Sand company regarding illegal quarry operations at Kallidaikurichi Part II Village, Ambasamudram Taluk, Tirunelveli District. According to the second respondent, the vehicle belonged to the petitioner was utilized for the said illegal quarry operations by name Bhoomi M.Sand Company. It is the case of the petitioner that she appeared and offered her explanation to the second respondent. It is her case that, her vehicle was involved in transportation for Bhoomi M.Sand Company only on 09.07.2020. But, according to her, she is not aware of any illegal transportation of sand by the said company. It is the apprehension of the petitioner as seen from the affidavit filed in support of this writ petition that the respondents are attempting to unlawfully involve the petitioner's vehicle in the illegal transportation of minerals, which is an offence under Section 21(4) of the Mines and Minerals (Development and Regulations) Act, 1957. The petitioner's apprehension is that, the respondents 1 to 3 may seize her vehicle namely tipper lorry bearing registration No.TN-69-B-9772 for no fault of years. In such circumstances, this writ petition has been filed to forbear the respondents 1 to 3 from seizing the petitioner's vehicle namely tipper lorry.

5.Admittedly, no final orders have been passed under Section 21(4) of the Mines and Minerals (Development and Regulations) Act, 1957 for seizure of the petitioner's tipper lorry bearing registration No.TN-69-B-9772. The second respondent has only issued a show cause notice on 06.10.2020, calling upon the petitioner for hearing on 12.10.2020 with regard to the alleged involvement of her vehicle for transporting illegal minerals. The learned counsel for the petitioner has also submitted before this Court that the petitioner has also given an explanation to the show cause notice dated 06.10.2020, issued by the second respondent and has denied her involvement in the alleged offence committed under the provisions of the Mines and Minerals (Development and Regulations) Act, 1957. Admittedly, no final order has been passed, pursuant to the show cause notice dated 06.10.2020, issued by the second respondent. This being the case, the apprehension of the petitioner that his lorry will be seized by the second respondent is uncalled for. It is for the second respondent to consider the explanation submitted by the petitioner to the show cause notice dated 06.10.2020, on merits and in accordance with law and only thereafter pass final orders.

6.Admittedly, the second respondent is empowered to issue show cause notice to the petitioner for the alleged usage of his lorry for illegal quarry operations under the Mines and Minerals (Development and Regulations) Act, 1957. It is settled position



of law that a show cause notice cannot be challenged under Article 226 of the Constitution of India, unless and until, the show cause notice has been issued without authority under law. In the case on hand, the show cause notice has been issued on 06.10.2020, under the Mines and Minerals (Development and Regulations) Act, 1957 and the competent authority is empowered to seize the vehicle in case of its involvement in any illegal quarry operations.

7.The petitioner has already submitted her explanation to the said show cause notice and it is for the second respondent to consider the petitioner's explanation on merits and in accordance with law. Since no final order has been passed in the said show cause notice dated 06.10.2020, issued by the second respondent, the apprehension of the petitioner that the respondents are attempting to repossess his tipper lorry is uncalled for. The petitioner has approached this Court pre-maturely, without waiting for final orders to be passed by the second respondent, pursuant to the show cause notice issued on 06.10.2020.

8.For the foregoing reasons, this writ petition is disposed of by giving a direction to the second respondent to pass final orders on the show cause notice dated 06.10.2020, by considering the petitioner's explanation and also by affording the petitioner adequate opportunity including granting her personal hearing and pass final orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. In the interregnum, it is made clear that the respondents 1 to 3 are restrained by an order of injunction from repossessing the petitioner's vehicle namely tipper lorry bearing registration No.TN-69-B-9772 for the offence alleged to have been committed by her on 09.07.2020, under the Mines and Minerals (Development and Regulations) Act, 1957. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

TM
To

1.The District Collector,
Tirunelveli District,

<https://hcservices.hcscourts.gov.in/hcservices/>



2.The Sub Collector,
Cheranmahadevi,
Tirunelveli District.

3.The Assistant Director,
Mines Department,
Tirunelveli District.

+1 CC to SGP (SR-22406[F] dated 20/11/2020)

W.P. (MD)No.16330 of 2020
19.11.2020

PE (CO)
KM (30.11.2020) 4P 5C