



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.16627 of 2020
(Through Video Conference)

WEB COPY

Thenmozhi

... Petitioner

Vs

1) The Revenue Divisional Officer,
Sivagangai, Sivagangai District.

2) The Inspector of Police,
Elayangudi Police Station,
Sivagangai District.

3) The Assistant Director of Geology and Mining,
Sivagangai, Sivagangai District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to release the petitioner's vehicle, namely Tipper Lorry, bearing registration No.TN 65 F 5206 from his custody and to hand over the above vehicle to the petitioner forthwith by considering the petitioner's representation dated 10.11.2020.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.M.Rajarajan,
Additional Government Pleader

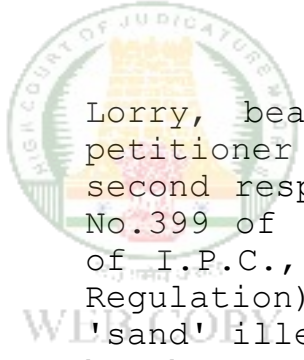
O R D E R

This writ petition has been filed for a Mandamus to direct the respondents to release Tipper Lorry, bearing registration No.TN 65 F 5206 from his custody and to hand over the above vehicle to the petitioner forthwith by considering the petitioner's representation dated 10.11.2020.

2. Heard M.S.Jeyakarthik, learned counsel appearing for the petitioner and Mr.M.Rajarajan, learned Additional Government Pleader appearing for the respondents.

3. By consent of both parties, the 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 65 F 5206. According to her, on 03.11.2020, the second respondent has seized the Tipper



Lorry, bearing registration No.TN 65 F 5206 alleging that the petitioner has transported sand illegally in her vehicle and the second respondent registered a case against the petitioner in Crime No.399 of 2020 for the offence punishable under Sections 379 & 511 of I.P.C., and section 21(4) of Mines and Minerals (Development & Regulation) Act, 1957 alleging that the petitioner has transported 'sand' illegally in her vehicle. The petitioner's vehicle was seized by the second respondent Police on the same date.

5. It is the contention of the petitioner that the Tipper Lorry, bearing registration No.TN 65 F 5206 has also not been produced by the second respondent Police before the concerned Jurisdictional Court. According to the petitioner, the seized Tipper Lorry is now being kept in the open place and due to exposure of sun and rain and the vagaries of nature, the Tipper Lorry will lose its value and may, ultimately become a wreck and worthless. In such circumstances, this Writ Petition has been filed seeking for release of the said Tipper Lorry, bearing registration No.TN 65 F 5206.

6. The petitioner has also given a representation on 10.11.2020 to the respondents 1 & 2 seeking for release of the said Tipper Lorry, bearing registration No.TN 65 F 5206. According to the petitioner, the said representation has not been considered by the respondents till date. As rightly contended by the petitioner, if the Tipper Lorry, which was seized by the second respondent, is kept in the open place, it will not be useful to anyone in the near future and if it is continued to remain in the open, it has to face the vagaries of nature and ultimately will become a wreck and worthless. However, whether the petitioner has committed the alleged offence or not can be adjudicated only after trial before the Criminal Court. Till such time, the vehicle cannot be kept idle. Therefore, this Court is inclined to grant similar relief to the petitioner subject to 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 first 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 vehicles in question till the proceedings are completed;
- (iii) the petitioner shall not change the colour and scheme of the vehicles;
- (iv) the petitioner shall not use the vehicles for any illegal activities;
- (v) before releasing the vehicles, the police authority shall take photographs of the vehicles at the cost of the petitioner;
- (vi) the petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicles to the first respondent; and
- (vii) as and when the respondents call for the vehicles



in question and she shall cooperate with the enquiry to be conducted by the respondents.

7. Upon completion of the above mentioned formalities, the respondents shall release the Tipper Lorry, bearing registration No.TN 65 F 5206 to the petitioner forthwith and without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled for interim release of the vehicle in the future. As far as confiscation proceedings initiated against the seized vehicle are concerned, the same can go on without any interference.

8. The Writ Petition is disposed of accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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 Revenue Divisional Officer,
Sivagangai, Sivagangai District.
- 2) The Inspector of Police,
Elayangudi Police Station,
Sivagangai District.
- 3) The Assistant Director of Geology and Mining,
Sivagangai, Sivagangai District.

+1 CC to Mr.M.S. JEYAKARTHIK, Advocate (SR-22848[F] dated 26/11/2020)

+1 CC to SPL GP (SR-23008[F] dated 26/11/2020)

Order made in
W.P. (MD) No.16627 of 2020
24.11.2020

VB (04.12.2020) 3P 6C

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