

Uday S. Jagtap

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2461 OF 2021

M/s. Align Global Logistics Pvt. Ltd. .. Petitioner

Vs.

The State of Maharashtra & Ors. .. Respondents

.....

Ms. A.P. Madhuri for the petitioner
Mr. Vikas Mali, AGP for respondent State

**CORAM : K.K. TATED &
PRITHVIRAJ K. CHAVAN, J.J.**

**DATED : 6th JULY, 2021
(VIDEO CONFERENCING)**

P.C.

1. Rule.
2. Rule made returnable forthwith.
3. The learned AGP waives service on behalf of respondent Nos. 1 and 3. Heard finally with the consent of the learned Counsel for the petitioner and the learned AGP.
4. The petitioner is a private limited Company which deals in the business of transportation of goods / moving cargos etc. from the State of Haryana to various other States, including the State of Maharashtra. On 9th June, 2021, the petitioner's truck bearing Registration No.HR-55-N-9036 which was registered with RTA, Gurgaon in the year 2011 for the purpose of transportation,

inadvertently and with genuine mistake plied by its driver within the limits of Mumbai. The said truck was, therefore, detained and impounded by the respondent no.3 on the ground that it was more than 8 years old, which is in breach of the directions issued by the Division Bench of this Court in Writ Petition No. 1762 of 1999 on 3rd March, 2004.

5. It is the contention of the petitioner that on the day of its seizure, the said truck was only 9 years and 9 months old and since the driver is from Haryana who was newly appointed, was also unaware of the age of the truck and, therefore, he drove the same within the limits of city of Mumbai. It is also the contention of the petitioner that the driver of the said truck was also unaware of the fact that entry of vehicles more than 8 years old are restricted in Mumbai. It was sheer inadvertence and *bona fide* mistake on his part. The driver was also ignorant of the fact that the truck was also not converted into CNG.

6. The learned Counsel for the petitioner has, therefore, placed useful reliance upon a few orders passed by this Court having identical facts, wherein subject to undertaking given by the respective vehicle owners; namely not to ply the vehicle in the city of Mumbai and subject to deposit of certain amounts, vehicles were ordered to be released. Those orders were passed by the Division Bench of this Court in Writ Petition No. 654 of 2019 (Coram : Naresh H. Patil, CJ & N.M. Jamdar, J.), decided on 31st January, 2019, Writ Petition No. 14211 of 2016 along with Writ Petition Nos. 14213/2016, 537/2017 and 538/2017 (Coram : A.S. Oka & Anuja Prabhudessai, J.J.) decided on 25th January, 2017.

7. The learned AGP is *ad-idem* on the said aspect.
8. In view of the above, the truck belonging to the petitioner shall be released in favour of the petitioner upon following conditions :-
 - (a) The petitioner shall file an undertaking before this Court that henceforth the said truck shall not be plied in the city of Mumbai and shall be taken out from the city of Mumbai forthwith.
 - (b) The petitioner shall deposit a sum of Rs.10,000/- with respondent no.3.
 - (c) Upon production of true copies of the undertaking filed in this Court and deposit of Rs.10,000/- with respondent no.3, the said truck shall be released in favour of the petitioner.
 - (d) The Petition is disposed of in the aforesaid terms.
 - (e) Rule is made absolute.
 - (f) All concerned to act on the authenticated copy of this order.

(PRITHVIRAJ K. CHAVAN, J.)

(K.K. TATED, J.)