

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.10774 of 2021

K.Sathiskumar

...Petitioner

-vs-

1. The Revenue Divisional Officer,
Tiruvannamalai,
Tiruvannamalai District.
2. The Inspector of Police (CSCID-Chennai),
Tiruvannamalai Unit,
Tiruvannamalai Police Station,
Tiruvannamalai District.

Head Office at
Office of Civil Supplies CID,
EVR Periyar Building, First Floor B Wing,
No.474, Anna Salai, Nandanam,
Chennai 600 035

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus, directing the respondents to release his TATA ACE Van bearing registration No.TN 04 AJ 3405 seized by the second respondent on 16.02.2021 to the petitioner forthwith based on the petitioner's representation dated 13.04.2021.

For Petitioner : Mr.N.Vijaya Basker

For Respondents: Mr.R.A.S.Senthilvel
Additional Government Pleader

ORDER

The Writ Petition is filed for a mandamus seeking a direction to the the respondents to release the TATA ACE Van bearing registration No.TN 04 AJ 3405 seized by the second respondent on 16.02.2021 to the petitioner, based on his representation dated 13.04.2021.

2. Heard both sides and perused the materials available on record.

3. Insofar as the Mines and Minerals (Development and Regulation) Act, 1957, is concerned, the Government has passed a Government Order in G.O.(Ms)No.298 Home (Courts-II) Department, dated 13.06.2019, designating the Principal Judge, City Civil Court, Chennai and the Principal District Judges / District Judges in the State of Tamil Nadu to deal with the offences in contravention of the provisions of the said Act.

4. A Hon'ble Division Bench of this Court, while dealing with a Writ Petition for release of the vehicle involved in the offence under the Mines and Minerals (Development and Regulation) Act, 1957 in W.P.Sr.No.49596 of 2020 dated 20.08.2020 has held in paragraph 6, as follows:-

"6. In the judgement referred above, the Division Bench has clearly indicated the difference between the seizure and confiscation particularly, in the light of the provisions governed under the enactment. Therefore the power of release is only available to the designated court. This is for the reason that confiscation involves a process and a release is not a matter of course being one of the option open to the court by considering the facts governing. If that is the position, this Court cannot interdict the same without going into the role assigned to the designated court and without taking note of the relevant provisions governing."

5. In this case, a vehicle has been seized for the violation of the provisions under the Essential Commodities Act, 1955, which is also a special enactment and similar procedure as that of the Mines and Minerals Act should be followed for the violations under the Essential Commodities Act, 1955. As the said vehicle was indulged in transporting PDS rice illegally, the petitioner is not entitled for release of the vehicle.

6. At this juncture, it is relevant to note that a Division Bench of this Court in W.A.No.984 of 2020, while dealing with a similar issue, held as follows in the order dated 20.04.2021.

"5. When once a case is registered resulting in First Information Report, the only option available to the appellants is to produce it before the jurisdictional Court. This is for the

reason, in Section 6(A) both the main provision and the proviso do not facilitate the release of the vehicle. When once we hold that the appellants do not have the power of release of the vehicle, the consequence is that the vehicle can only be released by the jurisdictional Court. After all, the seizure has been made after the registration of the First Information Report. Thus, in the absence of any power or authority that is being available to the appellants even the reliance made on the instruction dated 21.02.2013 cannot be sustainable insofar any decision with respect to the release of the vehicle is concerned.

6. In such view of the matter, the only remedy open to the appellants, as discussed by us, in the preceding paragraphs is to handover the vehicle in question to the jurisdictional Court. Thereafter, the person aggrieved can file an application before the Court and seek the release of the vehicle. In such cases, the jurisdictional Court can consider the release of vehicle on terms.

7. The decision of the Apex Court relied on has to be seen in its own context. Inasmuch as we have considered the relevant provisions, we have come to the aforesaid conclusion.

8. In the case on hand, the respondent has sufficiently suffered. The First Information Report has been registered on 15.07.2019. Now, more than one and half years have elapsed. The valuation of the vehicle would have undergone substantial change. In such view of the matter, we are not inclined to interfere with the order of the learned Single Judge except indicating the position of law which is obviously binding on the appellants also.

The writ appeal stands disposed of accordingly. No costs."

7. In the light of the Division Bench order, the petitioner is not entitled for the relief sought for for the present, in this Writ Petition. As indicated in the Division Bench order, the petitioner can approach the jurisdictional court, which is the competent court to consider the release of the vehicle by imposing certain terms.

8. In view of the above, this Writ Petition is dismissed.
No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

srn
To

1. The Revenue Divisional Officer,
Tiruvannamalai,
Tiruvannamalai District.
2. The Inspector of Police (CSCID-Chennai),
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+1cc to the Government Pleader Sr.26336

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srg 09/07/2021

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