



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No. 21746 of 2021

S.Udayakumar

...Petitioner

-vs-

The Regional Transport Officer,  
Tirupur North,  
Tirupur.

...Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondent herein to order the release of the vehicle TN 55 Z 7753 and also the other scrapped vehicle detained at Uthukuli Police Station.

For Petitioner : Mr.T.Padmanabhan

For Respondent : Mrs.Akila Rajendran  
Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondent herein to order the release of the vehicle TN 55 Z 7753 and also the other scrapped vehicle detained at Uthukuli Police Station.

2. The petitioner is engaged in the business of quarrying and stone crushing assisted by his family members at Uthukuli. For the said purpose, the petitioner purchased a tipper lorry, bearing Registration No.TN 55 Z 7753 from a third party which is of 2010 model Leyland Vehicle and the transfer of ownership of the vehicle was also effected from 15.03.2018 in the name of the petitioner through the Registering Authority, i.e., Regional Transport Officer, Tirupur North.



3. Thereafter, according to the petitioner, since some damages had occurred to the body of the vehicle, the body of the vehicle was removed with the registration number exhibited in the body and the same put in a scrapped frame of the vehicle stationed in the same site. Thereupon, a fresh body was mounted on the vehicle with the same registration number and a goods carrier permit No.388/TN 39/GV/2018 was obtained from the respondent with effect from 30.04.2018 to 29.04.2023 and therefore, the vehicle is being used on the road.

4. While that being so, on 02.09.2021, the Motor Vehicles Inspector, Avanashi, attached to the respondent's Office, when he was engaging in vehicle inspection at Uthukuli area, found the said goods vehicle, i.e., TN 55 Z 7753 parked near Jothi crusher site in Uthukuli. On finding, an inspection report was served on the driver of the vehicle one Dharmaraj, where it is stated that, there is another vehicle with the same registration number also. Therefore, the vehicle in question belongs to the petitioner has been seized by the respondent and a Police complaint has been given and a report also has been forwarded to the District Collector.

5. Pursuant to the said seizer of the vehicle on the alleged ground that, there are two vehicles found by the respondent with the same registration number, a check report was prepared dated 02.09.2021 in Check Report Nos.110009 and 110010 and has been served on the driver of the vehicle.

6. In response to the check report, on 16.09.2021, the petitioner by way of representation has given reply as show cause to the said check report and requested the respondent to release the vehicle. Despite the said reply given on 16.09.2021 with request to release the vehicle since the same has not been considered by the respondent, the petitioner has moved the present Writ Petition.

7. Heard Mr.T.Padmanabhan. learned counsel appearing for the petitioner who would submit that, under the provisions of the Motor Vehicles Act, 1988, if at all any violation is noticed by the respondent that the permit condition is violated by the petitioner, they can conduct a limited enquiry after giving an opportunity to the petitioner and pass orders under Section 86 of the Motor Vehicles Act and without passing any orders, since the respondent keeps the vehicle ideally, the petitioner livelihood is affected. Therefore, in order to release the vehicle, a suitable direction can be given by this Court to the respondent, he contended.

8. Per contra, Mrs.Akila Rajendran, learned Government Advocate appearing for the respondent, on instructions, would submit that, since two vehicles were found with the same registration number, the vehicles were seized and in this regard, a report has been already submitted to the District



Collector concerned.

9. Insofar as the request and the response made by the petitioner to the check report given by the respondent is concerned, the same would be considered in accordance with the provisions of the Motor Vehicles Act especially under Section 86 and accordingly, after giving an opportunity of being heard to the petitioner, the same would be decided on merits within a time frame that may be stipulated by this Court, she contended.

10. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

11. Section 86 of the Motor Vehicles Act, under the heading "Cancellation and suspension of permits" empowering the Transport Authority who grants a permit to cancel the permit or to suspend the same for such period as it thinks fit on the violation which has been enumerated in Section 86 of the Act. However, before cancelling or suspending the permit, an opportunity has to be given to the permit holder and once an order is passed under Section 86, an aggrieved party can prefer an appeal under Section 89 to the Appellate Authority.

12. That is how the provisions have been contemplated under the Motor Vehicles Act, which suggest that, if the vehicles are seized from the permit holder for any alleged violation of the permit condition, notice has to be given and thereafter, after getting reply from the permit holder, enquiry is to be conducted, thereafter orders to be passed, as to whether, the permit has to be cancelled or suspended or without doing the same the vehicle in question simply be released to the permit holder.

13. In view of the said provision of the Motor Vehicles Act, this Court feels that, the issue raised in this Writ Petition through the request / reply dated 16.09.2021 made by the petitioner to the respondent can be resolved by the respondent by conducting an enquiry under Section 86 of the Motor Vehicles Act after giving an opportunity to the petitioner and accordingly, the same can be decided within a time frame.

14. In view of the above, this Writ Petition is disposed of with the following orders:

"(i) That there shall be a direction to the respondent to conduct an enquiry by giving an opportunity of being heard to the petitioner or his authorized counsel by giving notice to the petitioner and thereafter, a decision can be made as to whether any penalty like cancellation of permit or suspension of permit be imposed on the petitioner or otherwise to release the vehicle simply without imposing any such penalty and final



order shall be passed by the respondent within a period of four weeks from the date of receipt of a copy of this order."

15. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-  
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vji

To

The Regional Transport Officer,  
Tirupur North,  
Tirupur.

+1cc to Mr.T.Padmanaban, Advocate, S.R.No.58288

+1cc to the Government Pleader, High Court, Madras, S.R.No.58543

W.P. No. 21746 of 2021

SV(CO)  
RGA(16/11/2021)