



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Thirty First day of March Two Thousand and Twenty One

PRESENT

WEB COPY

The Hon`ble Mr.Justice G.R.SWAMINATHAN

WMP(MD) No.5471 of 2021

IN

W.P.(MD)No.7167 of 2021

JOHNPETER

... PETITIONER/PETITIONER

Vs

1.THE REGIONAL TRANSPORT OFFICER, REGIONAL TRANSPORT OFFICE,
PALANI,
DINDIGUL DISTRICT.

2.THE MOTOR INSPECTOR GRADE -I
REGIONAL TRANSPORT OFFICE, PALANI,
DINDIGUL DISTRICT

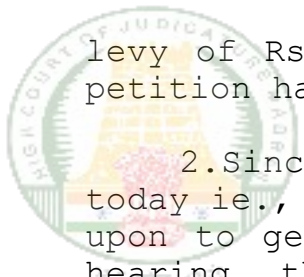
3.THE INSPECTOR OF POLICE
ODDANCHATHRAM POLICE STATION, ODDANCHATHRAM,
DINDIGUL DISTRICT

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass an order of interim direction directing the 3rd respondent for interim custody of the vehicle bearing no.TN-57-AQ-4764 (Bajaj CT 100) to the petitioner till the disposal of the Writ Petition(MD)No.7167 of 2021.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.SARVAGAN PRABHU.S, Advocate for the petitioner and of M/S.BHAGAVATHY, learned Government Advocate takes Notice on behalf of the Respondents the Court made the following order:-

The writ petition was listed for admission before this Court on 30.03.2021. The petitioner's case is that the petition mentioned vehicle was involved in an accident and it was also seized by the third respondent and handed over to the second respondent. For want of pollution control certificate, the second respondent levied compounding fee of Rs.10,000/-. According to the petitioner, for the first time offence, the authority can levy Rs.1,000/- and for subsequent violation, he can levy Rs.2,000/-. According to him,



levy of Rs.10,000/- is not legal. Questioning the same, this writ petition has been filed.

2. Since it is a pure question of law, the case was adjourned to today ie., 31.03.2021 and the learned Government Advocate was called upon to get instructions. Today when the matter was taken up for hearing, the learned Government Advocate submitted that since the officials are engaged in election duty, he is not able to get instructions.

3. I am not seeking any instruction on facts, I am only seeking a clarification on the legal position. The petitioner's counsel draws my attention to the answer obtained by him through Right to Information Act vide communication bearing Na.KaNo.46258/I4/2019, dated 13.01.2021, the Joint Commissioner (Transport), Chepauk, Chennai-5, has informed the petitioner that only a sum of Rs.1,000/- can be levied on a first time offender. I am satisfied that *prima facie* case has been made out by the petitioner. The vehicle in question appears to be in the custody of the third respondent for more than one year and four months.

4. The Hon'ble Supreme Court in the decision reported in **(2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat)** has held as follows:-

"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

5. Since the learned Government Advocate seeks time to file counter, the case is adjourned. The case may be taken up in due course. However, the respondents 2 and 3 are directed to return the petition mentioned vehicle to the petitioner herein forthwith and without any delay on payment of Rs.1,000/-. I make it clear that what has been ordered is only interim custody. The petitioner will not not alienate or encumber the vehicle in question till the proceedings are completed and he will produce the same as and when required for enquiry. The petitioner also gives an undertaking that if the writ petition is dismissed by upholding that levy made by the respondents, he would pay the same.



6.W.M.P. (MD) No.5471 of 2021 is allowed on these terms.

WEB COPY

Sd/-
31/03/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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 REGIONAL TRANSPORT OFFICER, REGIONAL TRANSPORT OFFICE,
PALANI,
DINDIGUL DISTRICT.
2. THE MOTOR INSPECTOR GRADE -I
REGIONAL TRANSPORT OFFICE, PALANI, DINDIGUL DISTRICT
3. THE INSPECTOR OF POLICE
ODDANCHATHRAM POLICE STATION, ODDANCHATHRAM,
DINDIGUL DISTRICT

+One cc to M/s.S.SARVAGAN PRABHU, Advocate , SR.No.2794

RL/5C/2P/29/4/2021

ORDER
IN
WMP (MD) No.5471 of 2021
IN
WP (MD) No.7167 of 2021
Date : 31/03/2021