



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **06.05.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P. (MD)No.9270 of 2021

Subhahar

... Petitioner

versus

The Regional Transport Officer,
Marthandam,
Kanyakumari District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to direct the respondent to release the petitioner's Mini Bus seized by the respondent on 23.04.2021, bearing Registration No.TN75 R 9651 from the custody of the respondent without any further delay.

For Petitioner : Mr.R.Russel Raj
For Respondent : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

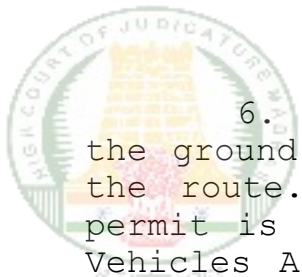
The petitioner, a Mini Bus operator, filed this writ petition for a mandamus, directing the respondent to release his Mini Bus, seized by the respondent on 23.04.2021, without any further delay.

2. The case of the petitioner is that he is operating a Mini Bus, bearing Registration No.TN75 R 9651 and on 23.04.2021, when his driver took the vehicle for filling fuel, near Tholayavattam Bus stand, the respondent seized the vehicle as if the driver has violated the permit conditions. The petitioner made a representation to the respondent on 26.04.2021 for release of his Mini Bus, however, the same was not considered. Hence, he filed the present writ petition.

3. Mr.R.Russel Raj, learned counsel for the petitioner, sought for release of vehicle, by referring an order passed by this Court in W.P.(MD)No.8729 of 2019 dated 22.04.2019.

4. Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader made certain certain objections that the petitioner has violated the permit conditions and has transported his Mini Bus by deviating the route.

5. This Court paid its anxious consideration on the rival submissions.



6. The petitioner's Mini Bus was seized by the respondent on the ground that the petitioner has plied his Mini Bus by deviating the route. If there is any violation of permit condition, the permit is liable to be suspended under Section 86(1) of the Motor Vehicles Act, 1988. However, Section 86(5) of the Motor Vehicles Act is an enabling provision for compounding the case. In this case, the respondent intercepted the petitioner's Mini Bus on 23.04.2021 at Tholayavattam Bus stand en route from Karunkal to Pudukadai, which is not a permitted route to the petitioner and the driver of the Mini Bus has taken the passengers from Karunkal to Pudukadai. Further, the petitioner's vehicle appears to have been involved in a similar offence in the year 2001 also.

7. Considering the enabling provision for compounding the case, the Writ Petition is disposed of with a direction to permit the petitioner to offer his explanation, within a period of two weeks from the date of receipt of a copy of this order and the respondent shall pass an order in accordance with law within two weeks from thereon.

8. Confining the vehicle with the respondent in the interregnum period would make the vehicle unusable and therefore, the respondents are directed to return the Mini Bus bearing Reg.No. TN75 R 9651 to the petitioner subject to the petitioner executing an affidavit of undertaking in the following manner:

(a) He shall strictly abide by all the permit conditions in future;

(b) He shall co-operate fully in the proceedings to be initiated by the respondent authority for violating the permit conditions;

(c) He shall not alienate the vehicle during the pendency of the enquiry.

9. On complying with the aforesaid undertaking given in the form of an affidavit, the respondent shall return the vehicle namely Mini Bus, bearing Registration No. TN75 R 9651 to the petitioner, within a period of one week thereafter. No costs.

Sd/-

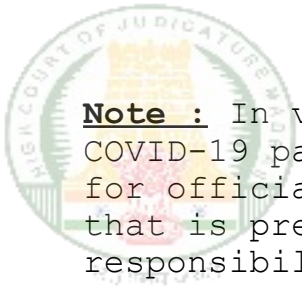
Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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.

WEB COPY

To

The Regional Transport Officer,
Marthandam,
Kanyakumari District.

+1 CC to M/s.GP (SR-18508[F] dated 07/05/2021)

W.P. (MD)No.9270 of 2021

06.05.2021

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