



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.05.2021

CORAM:

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR. JUSTICE B.PUGALENDHI**

W.P(MD)No.9356 of 2021

Malaiselvam

: Petitioner

Vs.

1. The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

2. The Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District.
(Crime No.42 of 2020)

3. The Assistant Director of Geology and Mining,
Ramanathapuram District,
Ramanathapuram District.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus, to direct the respondents to release the petitioner's vehicle namely Tractor bearing Registration No.TN65-x-8875 from his custody and to hand over the above vehicle to the petitioner forthwith, by considering the petitioner's representation dated 24.02.2021.

For Petitioner : Mr.Jeyakarthik, M.S
For Respondents : Mrs.M.Rajeswari
Government Advocate

ORDER

(Order of the Court was made by B.PUGALENDGHI, J.)

This writ petition has been filed for a writ of Mandamus directing the respondents to release the petitioner's Tractor bearing Registration No.TN65-x-8875, seized by the respondent police on 23.03.2020.



2.The case of the petitioner is that the respondent police has seized the petitioner's Tractor on the ground of illegal transportation of sand and a case has been registered in Crime No.42/2020 for the offence under Sections 2(1) of the Mines and Minerals (Regulation and Development) Act, 1957 (hereinafter referred to as 'the Act').

3.According to the learned counsel for the petitioner, instead of producing the vehicle before the Court, the same has been produced before the Revenue Divisional Officer and lying with the respondent police exposed to sun light and weather.

4.Ms.M.Rajeshwari, learned Government Advocate appearing for the respondents, submits that the respondent police, on instructions, found that the vehicle involved in illegal transportation of sand and pursuant to a case registered, seized the vehicle. She further submits that as per the earlier orders of this Court, this Writ Petition cannot be maintained and the remedy open for the petitioner is only before the concerned Special Court.

5. This Court paid its anxious consideration to the rival submissions and also perused the materials available on record.

6. In a similar cases filed for return of vehicle, which were seized for illegal transportation of minerals, the Division Bench of this Court, in a batch of cases (W.P.No.19936/2017 etc), issued various directions on this aspect including the dispossession of the vehicles seized in connection with the offence registered under the Mines and Minerals Act. The relevant directions are extracted hereunder:

"(xiv) Insofar as the seized vehicles are concerned, they shall be produced before the concerned Magistrate Court by the revenue authorities at the time of filing their respective complaints.

(xv) Any application for release of vehicles etc., can only be filed before the Special Court alone."

7. The order of the Division Bench is also challenged by the Government before the Hon'ble Apex Court in S.L.P.Nos.33477-33479 of 2018 and the same were disposed of by the Hon'ble Apex Court, by order dated 11.01.2019, by directing the petitioners to file review applications.

8. Accordingly, review application was also filed and the same was dismissed by the Division Bench of this Court by orders dated 09.09.2019 and 12.09.2019 with the following directions:

(i) "The Secretary to Government, Industries Department, Fort St. George, Chennai is directed to issue



proper directions either by way of order or circular to all the persons authorized to exercise the power to seizure indicating the manner and the circumstances under which the power of compounding is to be exercised sparingly;

(ii) The designated Courts are directed to deal with the question of confiscation or release of the vehicles on receipt of the private complaint or seizure report from the person authorized, notwithstanding the exercise of power of compounding. The persons authorized are directed to comply with the earlier directions with reference to making the private complaints;

(iii) Whenever the vehicles/materials seized are produced before the Court of confiscation proceedings, the Courts concerned shall take photographs of the vehicle/material and keep the material by public auction after getting valuation report from the Motor Vehicle Inspector of the District concerned or the authorities concerned and shall issue sale certificate to the successful bidder and deposit the sale price to the credit of the particular case. In the event, confiscation is ordered by the trial Court, the amount shall be confiscated to the Government.

(iv) If the designated Court comes to the conclusion that the vehicle/material is not liable to be confiscated, the same shall be returned to the parties who are legally entitled to.

(v) The applicants are directed to file an affidavit on the complaints made on the direction issued by this Court, particularly in the light of the submission made that they are not being followed. Such an affidavit will have to be filed within a period of four weeks from the date of receipt of a copy of this order."

Accordingly, the Government has also issued G.O.Ms.No.170, Industries (MMC.2) Department, dated 05.08.2020, issuing directions to the authorities / Officials of Revenue, Forest and Police departments on seizure of vehicles and compounding of offences.

9. Any vehicle seized, which is involved in illegal transportation of minerals, is liable to be confiscated under Section 21(4) of the Act by the Court competent to take cognizance on the issue and the competent authorities to file the complaint is also mentioned in G.O.Ms.No.170, dated 05.08.2020.

10. In view of the same, this Court is not inclined to entertain this Writ Petition. Accordingly, this Writ Petition is dismissed. However, it is open to the petitioner to approach the designated Court by filing appropriate application for interim custody of the vehicle pending confiscation proceedings, if any. The designated Court shall consider such application on its own merits within a



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W.P(MD)No.9356 of 2021

period of three weeks from the date of receipt of a copy of the application, if any submitted by the petitioner. No costs.

Sd/-

Assistant Registrar (AD-II)
Vacation Officer

// True Copy //

/ /2021

Sub Assistant Registrar (CS-)

To

1. The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.
2. The Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District.
3. The Assistant Director of Geology and Mining,
Ramanathapuram District,
Ramanathapuram District.

+1 CC to Mr.M.S.JEYAKARTHIK, Advocate (SR-18476[F] dated 05/05/2021)
+1 CC to Special Government Pleader (SR-18509[F] dated 07/05/2021)

Order made in
W.P (MD) No.9356 of 2021
Dated: 05.05.2021

RR

TE : 02/06/2021 : 4P/6C