



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.05.2021**

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

W.P (MD)No.9443 of 2021

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Malarkodi

: Petitioner

Vs.

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

2.The Assistant Director,
Mines and Minerals Department,
Ramanathapuram District.

3.The Inspector of Police,
Keelakarai Police Station,
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 Lorry bearing registration No.TN-46-J-8484, Engine No.SAE125274Z, Chassis No.MB1G3DWC2ARSB8909, seized by the third respondent police, by considering the petitioner's representation dated 07.05.2021, within a time stipulated by this Court.

For Petitioner

: Mr.R.Murugan

For Respondents

: Mr.J.Gunaseelan Muthiah

Additional Government Pleader

ORDER

(Order of the Court was made by S.S.SUNDAR, J.)

This writ petition has been filed for a writ of Mandamus directing the respondents to release the petitioner's Lorry bearing registration No.TN-46-J-8484, Engine No.SAE125274Z, Chassis No.MB1G3DWC2ARSB8909, seized by the third respondent police, by considering the petitioner's representation dated 07.05.2021.

2.The case of the petitioner is that the third respondent police has seized the petitioner's Lorry on the ground of illegal transportation of sand and a case has been registered in Crime No.42/2021 for the offence under Section 379 of IPC and 24 of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as 'the Act') dated 02.03.2021.



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. Though this Court is inclined to release the vehicle subject to terms, the Additional Government Pleader appearing for the respondents brought to the notice of this court the direction issued by a Division Bench of this Court in a batch of cases. The judgment of the Division Bench is also followed by another bench in W.P. (MD) No.9356 of 2021 dated 05.05.2021. In tune with the direction of the Hon'ble Division Bench in similar cases, which was disposed of recently, this Court is inclined to follow the same. Though the Hon'ble Supreme Court gave liberty to some of the petitioners to file review applications, the Division Bench of this Court dismissed the review applications 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



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.

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5. Any vehicle, which is involved in illegal transportation of minerals, is liable to be seized and the same is also 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.

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

Sd/-

Vacation Officer ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

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

2.The Assistant Director,
Mines and Minerals Department,
Ramanathapuram District.

3.The Inspector of Police,
Keelakarai Police Station,
Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-18555[F] dated 13/05/2021)

W.P(MD)No.9443 of 2021

Dated: 12.05.2021

DKS (CO)

KB(24.05.2021) 3P 5C