



W.P.(MD).No.15065 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.15065 of 2021

and

W.M.P(MD)Nos.12671 & 12672 of 2023

S.Rajavel

... Petitioner

Vs.

- 1.The Superintendent of Police,
Thanjavur District,
Thanjavur.
2. The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Thanjavur,
Thanjavur District.
3. The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Thanjavur,
Thanjavur District.
4. The Inspector of Police,
Prohibition Enforcement Wing,
Thanjavur,
Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorarified Mandamus***, to call for the records of the Impugned Order, dated 16.02.2023 in Na.Ka.No.Cn.



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01/PEW/TAN/2023 on the file of the 3rd Respondent and quash the same and consequently direct the 3rd Respondent to release the Petitioners Mahindra XUV 300 bearing registration No.TN-68-AF-5558 seized by the 4th Respondent on 16.01.2023 by considering the Petitioner's representation, dated 09.03.2023.

For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is filed challenging the Impugned Order, dated 16.02.2023 with a consequential direction to the 3rd respondent to release the vehicle.

2. The contention of the petitioner is that the respondents have issued a Show Cause notice on 02.02.2013 and he has submitted his explanation on 15.02.2023. As per Section 14(4) of the Tamil Nadu Prohibition Act, 1937, the petitioner should submit his explanation not exceeding the period of 14 days. Hence the petitioner ought to have submitted his explanation on or before 15.02.2023, but he posted his explanation on 15.02.2023 and the respondents received the explanation the next day only i.e. on 16.02.2023.



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3. However, the respondents submitted that the petitioner should have submitted his explanation on or before 15.02.2023 and the respondents have not received the same on or before 15.02.2023. Since the respondents had received the explanation beyond the prescribed time i.e. on 16.02.2023, the same cannot be entertained.

4. It is seen from the record that the petitioner has posted the reply on 15.02.2023, which is evident from the postal receipts. Therefore, this Court is of the considered opinion that the respondents ought to have taken the dispatch date and not the date of receipt. Therefore, the petitioner has posted his reply within a period of 14 days which is within the prescribed time. Therefore, this Court is inclined to interfere with the impugned order and the same is liable to be quashed.

5. Accordingly, the impugned order, dated 16.02.2023 is hereby quashed. The respondents shall consider the explanation and pass an order afresh, after issuing notice to both the parties after affording personal hearing.



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6. With these observations and directions, this Writ Petition is allowed. There shall be no order as to costs. Consequently, W.M.P.(MD)No. 12671 is allowed and W.M.P(MD)No. 12672 of 2023 is closed.

13.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

1. The Superintendent of Police,
Thanjavur District,
Thanjavur.
2. The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Thanjavur,
Thanjavur District.
3. The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Thanjavur,
Thanjavur District.
4. The Inspector of Police,
Prohibition Enforcement Wing,
Thanjavur, Thanjavur District.



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S.SRIMATHY, J.

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