



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P. [MD]No.21537 of 2021

and

W.M.P. [MD]Nos.18091 & 18093 of 2021

WEB COPY

S.Jeya

... Petitioner

Vs.

1.The Additional Superintendent of Police,
PEW - Ramanathapuram Police Station,
Ramanathapuram,
Ramanathapuram District.

2.The Inspector of Police,
Pamban Police Station,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent in his proceedings 54-01/parimuthal/Thu.Kaa.ka/Ma.Vi.Aa.Pi/Erama/2021 dated 23.07.2021 and quash the same as illegal, consequently, directing the first respondent to release TVS NTORQ bike bearing Reg.No.TN-65-AL-5022 seized by the second respondent on 17.06.2021.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader

O R D E R

Mr.K.Gokul, learned Counsel for lone writ petitioner and Mr.S.R.A.Ramachandran, learned Counsel who accepts notice on behalf of both the respondents are before me, with the consent of both learned Counsel main writ petition is taken up.

2.In the captioned main writ petition, an order bearing Reference No.54 - 01 / பறிமுதல் / து - கா.க/ம.வி.அ.பி/இராம/2021 [undated] has been



called in question and the same shall be referred as 'impugned order'. However, the impugned order has been signed by the first respondent on 23.07.2021 and therefore, I shall construe that as the date of the impugned order.

3. Impugned order has been made under Section 14(4) of 'the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937)' [hereinafter 'said Act' for the sake of convenience and clarity]. It deals *inter alia* with confiscation of a vehicle. In the case on hand, a two-wheeler bearing Registration No. TN 65 AL 5022 has been confiscated on the basis that the same was used by another individual for transporting liquor sold in domestic outlets. The impugned order also says that a case has been registered vide Crime No.154/2021 under Section 4(1)(a) of said Act on the file of second respondent.

4. The matter turns on a very short point. As already alluded to supra, impugned order has been made under Section 14(4) of said Act. Clause (ii) of the first proviso to Section 14(4) reads as follows:

'Provided that, before passing an order of confiscation, the owner or the person from whom such animal, vessel, cart or other vehicle is seized, shall be given-

(i) a notice in writing informing him of the grounds on which it is proposed to confiscate the animal, vessel, cart or other vehicle:

(ii) an opportunity of making a representation in writing within a reasonable time, not exceeding fourteen days, as may be specified in the notice, against the grounds of confiscation; and'

5. A perusal of the impugned order shows that a notice appears to have been given to the writ petitioner on 13.07.2021 and the writ petitioner has responded on 19.07.2021 but the impugned order merely says that the reasons set out by the noticee writ petitioner is not acceptable. The impugned order neither mentions what the reasons are nor as to why the same are not acceptable. Similarly in the penultimate paragraph of the impugned order the date on which the confiscated vehicle was produced before the Government for confiscation is blank. For better appreciation of this order, I deem it appropriate to extract and reproduce the impugned order, which reads as follows:

[illegible]

[Underlining made by this Court for highlighting, supplying emphasis and for ease of reference]

6. It is necessary that the impugned order mentions the reason for not accepting the objections of the writ petitioner however terse it may be but it cannot be silent. Likewise, the date being left blank is unacceptable.

7. The impugned order is set aside on the aforementioned two short points without expressing any further opinion on the merits of the confiscation. The first respondent is directed to redo the impugned order as expeditiously as the business of the first respondent would permit but in any event within a fortnight from today ie., on or before **17.12.2021**.

8. Captioned Writ Petition is disposed of in the aforesaid manner with the above directive. Consequently, captioned Writ Miscellaneous Petitions are disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



MR

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 Additional Superintendent of Police,
PEW - Ramanathapuram Police Station,
Ramanathapuram,
Ramanathapuram District.

2.The Inspector of Police,
Pamban Police Station,
Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-37619[F] dated 07/12/2021)

ORDER MADE IN
W.P. [MD]No.21537 of 2021
03.12.2021

ks (CO)

TR(10.12.2021) 4P 4C