

Pallavi

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 3398 OF 2022
WITH
INTERIM APPLICATION (L) NO. 17066 OF 2022
IN
WRIT PETITION NO. 3398 OF 2022**

Bharat Babasaheb Shinde ...Petitioner
Versus
The State of Maharashtra Thr. ...Respondents
Commissioner of Transport & Anr.

Mr. Valmiky Narvekar, for Petitioner.
Mr. Amit Shastri, AGP, for Respondent Nos.1 and 2.

PALLAVI
MAHENDRA
WARGAONKAR

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PALLAVI MAHENDRA
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**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.
DATED : 23RD AUGUST 2022**

PC. :

1. Vehicle of the Petitioner is seized on the ground that the same is above eight years old and plied within municipal limits of the Bombay. The learned counsel for the Petitioner and the AGP accept that orders are passed in similar matters wherein Petition was allowed and the Petitioner was restrained from plying within the municipal limits of Greater Bombay. In view of the above, we follow the same course.

2. Rule. The learned AGP waives service for the respondents. The Division Bench of this Court vide order dated 3rd March 2004 passed in a Notice of Motion taken out in Writ Petition No.1762/1999 issued a direction to phase out eight years old transport vehicles from the city of Mumbai unless the same are converted to run either on CNG or LPG. A direction was also issued that if in breach of the direction any transport vehicle is found plying within the limits of Mumbai, the same shall be immediately impounded by the Regional Transport Office or by the Traffic Office.

3. It is not in dispute that the petitioner is the owner of the subject transport vehicle and the said vehicle was found plying within the limits of city of Mumbai though the said vehicle was eight years old and though it was not converted to run either on CNG or LPG.

4. The learned counsel appearing for the petitioner submits that the petitioner is willing to give an undertaking as provided in the orders passed by this Court in similar matters and is willing to deposit a reasonable amount. The learned counsel appearing for the petitioner submits that as in the case of the orders, a copies of which are annexed at Exhibit-E1 to E3 to the petition, a reasonable amount be fixed. The learned

AGP relies upon the order dated 28th March 2012 passed in Writ Petition No.10504 of 2011 and the order dated 22nd November 2018 passed in Writ Petition No.8921 of 2018 wherein the amount of penalty is quantified at Rs.50,000/-.

5. Considering the fact that the petitioner has committed a breach of the order passed on 3rd March 2004 in October, 2018, the amount will have to be quantified at Rs.50,000/-.

ORDER

- (i) The vehicle subject matter of this petition described in paragraph-12(a) of the petition shall be released to the petitioner subject to the following conditions:
 - (a) The petitioner filing an undertaking before this Court to the effect that the vehicle shall not be plied in the city of Mumbai and shall be taken out of the city of Mumbai; and (b) The petitioners depositing a sum of Rs.50,000/- in the Regional Transport Office at Wadala, Mumbai.
- (ii) Only upon the deposit of a sum of Rs.50,000/- by the petitioner with the aforesaid Regional Transport Office and his producing a copy of the undertaking filed in this Court, the vehicle shall be released to

the petitioner on production of an authenticated copy of this order.

- (iii) Rule is made absolute in the above terms.
- (iv) All concerned to act on an authenticated copy of this order.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)