



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2022

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.29742 of 2014
and M.P.No.1 of 2014

N.Gopalakrishnan

... Petitioner

Vs.

1. The Additional Deputy Superintendent of Police,
Prohibition and Excise Wing,
Office of the Superintendent of Police,
Krishnagiri District.

2. The Inspector of Police,
Prohibition and Excise Wing,
Hosur Unit, Krishnagiri District, Krishnagiri.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned notice dated 30.10.2014 issued by the first respondent in C.No.591-14/ADSP/PEW/KGI/2014 and quash the same.

For Petitioner : Mr.P.Satheesh Kumar

For Respondents : Mr.M.Rajendiran
Additional Government Pleader

O R D E R

The notice for confiscation of vehicle under Section 14 (4) of the Tamil Nadu Prohibition Act, 1937, is under challenge before this Court.

2. The allegation against the petitioner was that he has smuggled 180 ml of Raclico crown fine whisky in his Maruthi Swift Car bearing Registration No.KA-51-Z-9635 on 21.08.2013. It is noted that the petitioner had filed a petition for return of the property and the same was ordered on condition that the vehicle shall be produced as and when the Court directs him to produce the same. While the matter was pending trial, notice in C.No.591-14/ADSP/PEW/KGI/2014, dated 30.10.2014 was issued by the Authorized Officer.



3. It is true to state that the Collector or other Prohibition Officer in charge of the District or by any other Officer authorised by the State Government is entitled to order confiscation of the vehicle used in the commission of such offence. But, proviso to sub-Section 4 of Section 14 of the Tamil Nadu Prohibition Act, 1937, makes a pre-condition that before passing an order of confiscation, the owner of the vehicle shall be issued with a notice, grounds on which, the vehicle is proposed to be confiscated, an opportunity of making representation as well as personal hearing. But, in the instant case, the impugned order is bereft of specific details and passed with a predetermined mind to sell the vehicle without following the mandatory requirements of Section 14(4) of the Act. In doing so, the proceedings number before this Court is also wrongly given. Therefore, it is clear that the respondents have not followed the mandatory requirements under Section 14(4) of Tamil Nadu Prohibition Act, 1937, in conformity with the principles of natural justice and also hastily passed an order without application of mind by giving wrong details of the case. On these grounds alone, the impugned order is liable to be set aside.

4. Admittedly, in this case, the prosecution has instituted the case against the petitioner and the same is pending trial. Pending trial, as per Sub-Section 2 of Section 14, if the Court decides that anything is liable to be confiscated, an order shall be passed by the Court. But in the instant case, after institution of the case, the Authorized Officer with predetermined mind passed the order without adhering to procedure laid down under the Act. Therefore, the impugned order issued by the first respondent in C.No.591-14/ADSP/PEW/KGI/2014 dated 30.10.2014 does not stand the test of judicial scrutiny and accordingly, the same is set aside.

In the result, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Deputy Superintendent of Police,
Prohibition and Excise Wing,
Office of the Superintendent of Police,
Krishnagiri District.

2. The Inspector of Police,
Prohibition and Excise Wing,
Hosur Unit, Krishnagiri District,
Krishnagiri.

+1cc to Mr.P.Satheesh Kumar, Advocate, S.R.No.10502
+1cc to the Government Pleader, S.R.No.11093

W.P.No.29742 of 2014
and M.P.No.1 of 2014

AK(CO)
CT(02/03/2022)