



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM

THE HON'BLE MR. JUSTICE M.SUNDAR

W.P (MD) No.1102 of 2022

and W.M.P. (MD) No.909 of 2022

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N.Kannan

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Prohibition of Enforcement Wing,
Ramanathapuram,
Ramanathapuram District.

2.The Inspector of Police,
Ervadi Dharga Police Station,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in his proceedings 261/Parimuthal/Thu.Kaa.Ka.Ma.Vi.A.Pi./Rama/2020 dated 01.09.2020 and quash the same is illegal and consequently directing the 1st respondent to release the petitioner's Hero Honda Splendor Plus bike bearing Reg.No.TN 45 AK 3844 seized by the 2nd respondent on 24.04.2020.

For Petitioner : Mr.A.Vadivel
For Respondents : Mr.T.Amjadkhan,
Government Advocate.

O R D E R

Mr.A.Vadivel, learned counsel on record for writ petitioner and Mr.T.Amjadkhan, learned Government Advocate who accepts notice on behalf of both the respondents are before this Court. There is no disputation or disagreement that the captioned matter is squarely covered by an earlier order dated 03.12.2021 made in W.P.(MD) No.21537 of 2021 and W.M.P.(MD)Nos.18091 & 18093 of 2021, which reads is as follows:

'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
hearing Reference No.54-01/gwpKjy;/J-



fh.f/k.tp.m.gp/,uhk/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.

WEB COPY

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:



[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.'

2. Therefore, there shall be a similar order in the captioned matter. The operative portion of this order is as follows:

Impugned order dated 01.09.2020 bearing reference 26-1/முற்புதல்/து-கா.க/ம.வ.அ.ப/இராம/2020. made by the first respondent is set aside and 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 i.e, on or before 08.02.2022.

3. Captioned writ petition is disposed of in the aforesaid manner with the above directive. Consequently, captioned WMP is disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsm

To

1.The Deputy Superintendent of Police,
Prohibition of Enforcement Wing,
Ramanathapuram,
Ramanathapuram District.

2.The Inspector of Police,
Ervadi Dharga Police Station,
Ramanathapuram District.

1 CC to M/s.A.VADIVEL, Advocate (SR-2450[F] dated 25/01/2022)

+1 CC to M/s.SPL.GP (SR-2567[F] dated 27/01/2022)

W.P(MD) No.1102 of 2022
and W.M.P. (MD) No.909 of 2022
25.01.2022

NA (CO)

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