



WP(MD)No.13387 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.07.2022

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Writ Petition (MD) No.13387 of 2022
and
W.M.P.(MD)No.9501 of 2022

Samuvel Raj, S/o.V.Sathiyanesan

.. Petitioner

Versus

1.The Regional Transport Officer,
Regional Transport Office,
Madurai Center,
SETC Complex,
Melur Road,
Madurai - 625 020.

2.Dhanalakshmi, W/o.Balakrishnan

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the first respondent to remove the petitioner's vehicles, bearing Registration Nos.TN-64-Q-2728, TN-64-S-3420, TN-64-T-0441, TN-64-T-0446 and TN-63-F-9300 from blacklist of the Online Portal of the Transport Department, based on the petitioner's representation, dated 07.06.2022.

For Petitioner : Mr.J.Jeyakumaran

For R1 : Mr.S.Kameswaran
Government Advocate

For R2 : Mr.A.R.Kannappan



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ORDER

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The petitioner has filed this Writ Petition seeking a direction to the first respondent to remove his vehicles, bearing Registration Nos.TN-64-Q-2728, TN-64-S-3420, TN-64-T-0441, TN-64-T-0446 and TN-63-F-9300 from the blacklist of the Online Portal of the Transport Department, based on his representation, dated 07.06.2022.

2.The petitioner submits that he is running a transport business under the name and style of "SSD Transport". He owns five LEV container vehicles (Lorry), bearing Registration Nos.TN-64-Q-2728, TN-64-S-3420, TN-64-T-0441, TN-64-T-0446 and TN-63-F-9300. On 12.04.2022 when the petitioner's LEV vehicle, bearing Registration No.TN-64-Q-2728 was moving with goods near Y.Othakadai in the National Highways, at the instigation of the second respondent, one B.Premnath, who is the son of the second respondent and his friends *viz.*, Mohan and Murugesan had stopped the vehicle and also abducted the same. Thereafter, on 13.04.2022 the petitioner's driver *viz.*, A.Arulraj was advised to give a complaint before the Y.Othakadai Police Station. Based on the complaint, the Inspector of Police, Y.Othakadai Police Station registered a case in Crime No.121 of 2022 for the offence punishable under Section 395 I.P.C. Thereafter, on 14.04.2022 the second respondent was arrested and she was remanded to judicial custody for more than 40 days.



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While so, on 03.06.2022, the petitioner received a message in his Mobile No. 7200088600 from the first respondent stating that his five vehicles were blacklisted. On 06.06.2022, the petitioner had approached the first respondent, asked him as to why his vehicles were blacklisted and requested the same to be removed. The first respondent informed the petitioner that the second respondent has filed a civil suit in O.S.No.171 of 2022 before the VI Additional District Court, Madurai, for partition and permanent injunction, in which, the first respondent was arrayed as one of the defendants, due to which, the vehicles were blacklisted. Further, the petitioner was advised to obtain appropriate orders from the concerned Civil Court and not to approach them.

3.The petitioner further submits that the second respondent, who is arrayed as an accused in the criminal case, has not filed any interim application in the said suit. Mere filing of the civil suit would not entitle the first respondent to categorise the petitioner's vehicles into blacklist which has crippled the business of the petitioner and also deprived the petitioner of his lawful income. Further, the petitioner has taken several loans for his business and due to the blacklisting and restriction on his vehicles, the petitioner is unable to make any earnings.



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4.The petitioner further submits that the permit in respect of some of the vehicles got expired on 30.06.2022. Due to the above said reason, the first respondent has not entertained the petitioner's request for renewal of permit. The petitioner further submits that it is for the second respondent to approach the Civil Court to get appropriate orders, if she is aggrieved and she cannot approach the first respondent, who without proper enquiry and without any sanction of law, had blacklisted the petitioner's vehicles. Hence, the present Writ Petition.

5.The first respondent filed a counter affidavit. The learned Government Advocate appearing for the first respondent submits that due to introduction of VAHAN Portal, which is an all India phenomena and adopted throughout the Country, wherein the particulars of the vehicle are uploaded, enabling the Law Enforcing Agency and others to view the same at any corner of the Country, it is mandatory that the Court Cases relating to the vehicles have to be uploaded in the Portal. The first respondent is arrayed as second defendant in the civil suit filed by the second respondent. In the said civil suit, the vehicles have been mentioned as properties of the second respondent and due to pendency of the civil suit, the said particulars have been uploaded in the VAHAN Portal. In the said software, Court Cases is one of the clauses to be filled up. Hence, the petitioner's vehicles have been blacklisted.



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6.The learned Government Advocate further submits that show cause notices dated 13.01.2022 were issued to the petitioner for not paying the tax under Section 86(1) of the Motor Vehicles Act, 1988 in respect of his vehicles bearing Registration Nos.TN-64-Q-2728, TN-64-S-3420, TN-64-T-0441, TN-64-T-0446 and TN-63-F-9300. The petitioner had not responded to the show cause notices. Thereafter, the first respondent vide his proceedings in R.No.7331/B2/2021, dated 08.03.2022, cancelled the permit of the aforesaid vehicles. Thereafter only, the vehicles were blacklisted.

7.The learned Government Advocate further submits that the second respondent has also filed a civil suit in O.S.No.171 of 2022 before the VI Additional District Court, Madurai, for partition and permanent injunction. Considering all these factors, the first respondent after following the procedure, had classified the petitioner's vehicles in the blacklist.

8.The learned Government Advocate further submits that the petitioner's vehicles are not covered with valid permits from 01.11.2021 and the proceedings of the Regional Transport Officer has not been challenged before the appellate Tribunal viz., the State Transport Appellate Tribunal, Chennai, as per Section 89 of the Motor Vehicles Act, 1988. On the other hand, the petitioner has filed this Writ Petition.



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9. In support of his submissions, the learned Government Advocate appearing for the first respondent relied on Paragraph 10 of the judgment in **Midhun Mathew Abraham vs. The Joint Road Transport Officer (Joint RTO), Sub-Regional Transport Office, Kuttanad, Alapuzha and others** [W.A.No.1058 of 2021, dated 05.10.2021], which reads as follows:-

"10. The sole question that emerges for consideration is whether the State Motor Vehicles Authority is entitled to blacklist or rather incorporate the details of any crime in which a vehicle is involved in the parivahan portal introduced by the Central Government for the purpose of tackling certain specified situations ? Before going to the amended rule 139 of the Central Motor Vehicles Rules, 1989, discussed above, certain of the other provisions in the amended rules may have to be taken into consideration. In rule 2 (xa), of the amended rules word 'portal' is defined to mean a web or electronic based system set up and maintained by the Central Government for –

(i) facilitating licensing, registration, issuance of certificate of fitness and permits of motor vehicles;

(ii) recording of offences including compounding, impounding, making endorsements, suspension and revocation of licenses and registrations.

(iii) Issuance of e-challan



(iv) preserving, retaining and granting access to machine readable, printable, shareable, verifiable and secure electronic records."

10. The learned counsel for the second respondent submits that the petitioner and the second respondent were living together for the past 17 years. The second respondent had contributed the entire gold and wealth for the development of the business of the petitioner and all the vehicles were purchased from the contributions made by the second respondent. The second respondent, earlier, married one Balakrishnan. In the said wedlock, she got a son viz., Premnath. Subsequently, the said Balakrishnan died. Due to untimely death of Balakrishnan, the second respondent was living alone. On coming to know about the second respondent's wealth background and as she was a young widow, the petitioner had taken advantage and they were living together for the past 17 years and taken her jewels and wealth and used the same in the business. Now, the business has grown manifold. The petitioner started neglecting the second respondent, not taking proper care and also living in a wayward life. The petitioner developed another relationship. When the same was questioned by the second respondent, she was assaulted and kept away and therefore, the second respondent is having no other means and a false complaint has been lodged against her and her son and she was in judicial custody for nearly 40 days. Further, the petitioner is attempting to sell the



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vehicles. To safeguard the properties and also for the future of her son, she filed a civil suit and also sent the case details to the first respondent. The first respondent had issued show cause notices calling upon the petitioner to appear for enquiry. The petitioner failed to participate in the enquiry and lodged a false complaint against the second respondent and others and thereafter, gave a representation to the first respondent. The first respondent on coming to know about the same, during January 2022, had issued a show cause notice to the petitioner. Finding him a chronic defaulter, the first respondent had blacklisted the petitioner's vehicles, for which, false allegations are made against the second respondent.

11.Considering the above said rival submissions and on perusal of the materials, it is seen that the petitioner and second respondent were living together for the past 17 years. The Aadhar Card, PAN Card and other documents would confirm that the petitioner was living with the second respondent. Now, they got separated for some reasons. A criminal complaint lodged at the instance of the petitioner against the second respondent, for which, she suffered incarceration for a period of 40 days. Thereafter, she gave representation to the first respondent apprehending that the petitioner might sell away the vehicles and deceive the second respondent. The second respondent had also filed a civil suit.



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12.Further, the VAHAN Portal was introduced in the year 2018 and a separate application is provided in the software for blacklisting the vehicles for certain purposes. There are 17 clauses given and Clause No.4 pertains to Court Cases to be entered. It would be apt that Court Cases are qualified with the word 'that any orders passed by the Courts'.

13.In this case, admittedly, a civil suit has been filed by the second respondent, in which, the first respondent and the petitioner are the defendants. In view of the same, the first respondent entered the vehicle particulars of the petitioner in the blacklist. It is nothing, but overzealous act. It would be appropriate that the first respondent to have asked for an appropriate order from the Court and thereafter, acted upon. In any event, the national permit relating to the petitioner's vehicles already expired and show cause notices issued to him during January 2022. However, the order came to be passed on 03.06.2022. In view of the same, the first respondent is directed to proceed with the show cause notices issued during January 2022 as against the petitioner and if required, additional show cause notices to be issued with regard to the subsequent development, with liberty to the petitioner as well as to the second respondent herein to make their objections, also give them personal hearing, thereafter, to pass appropriate orders as per the Motor Vehicles Act, 1988. The petitioner as well as the second respondent are



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directed to participate in the enquiry proceedings without delaying the process.

In any event, the entire enquiry process to be completed within a period of two months from the date of receipt of a copy of this order. The petitioner has filed this Writ Petition on 24.06.2022 in the meanwhile, on 30.06.2022, the petitioner's payment for tax got expired. The same to be received and accepted *de hors* the other proceedings pending against the petitioner.

14. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No
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13.07.2022

To

The Regional Transport Officer,
Regional Transport Office,
Madurai Center,
SETC Complex,
Melur Road,
Madurai - 625 020.



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M.NIRMAL KUMAR, J.

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