



W.P(MD)No.16663 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16663 of 2022

and

W.M.P.(MD)No.12091 of 2022

Ganesan

... Petitioner

Vs.

1.The District Revenue Officer,
Theni District,
Theni.

2.The Inspector of Police,
Civil Supplies Crime Investigation Department,
Uthamapalayam Post,
Theni District,
(Madurai Unit).

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.30058/2021/N1 dated 05.10.2021, quash the same as illegal and consequently directing the first respondent to release the petitioner's Mahindra Bolero Pickup vehicle bearing Registration No.KL-33-C-2557 to him.



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For Petitioner : Mr.M.Karuppasamy Pandiyan

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner's vehicle was seized in connection with Crime No.107 of 2021 registered on the file of the second respondent for the offences under Essential Commodities Act. The petitioner filed W.P.(MD)No.15648 of 2021. Vide order dated 02.09.2021, the writ petition was disposed of by directing the authority to dispose of the petitioner's representation for release of vehicle. Pursuant thereto, the petitioner's mother appeared in person before the first respondent. Instead of disposing the petitioner's representation, the petitioner's vehicle was confiscated. Questioning the same, this writ petition came to be filed.

3.No doubt, under Section 6A of the Essential Commodities Act, 1955, the competent authority can direct confiscation of the vehicle in which the essential commodities were transported illegally. But before doing so, show cause notice under Section 6B of the Essential Commodities Act must be issued. In this case, admittedly, no such show cause notice was issued. On this sole ground, I quash the impugned order.



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4.The vehicle in question has been in the custody of the respondents for quite some time. No purpose will be served in keeping the vehicle under the custody of the respondents. The Hon'ble Supreme Court in the decision reported in (2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat) has held as follows:-

“17.In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

5.Therefore, the first respondent is directed to grant interim custody of the said vehicle to the petitioner subject to the following conditions:-

- a) The petitioner shall pay a sum of Rs.10,000/- towards cost in the bank account of **Madurai Bench of Madras High Court Advocates Welfare Fund Trust** (Account No.7087208431, IDIB000H040, Indian Bank, Madurai Bench of the Madras High Court Branch). It will be a non-refundable payment. The Trust shall utilise the said amount for the legal education of any law student belonging to Scheduled Caste community.*



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- b) *The petitioner shall not alienate or encumber the vehicle till the proceedings are completed.*
- c) *The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.*
- d) *As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.*

6. Upon completion of these formalities, the respondents shall grant interim custody of the vehicle forthwith to the petitioner without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim custody of the vehicle in future. I make it clear that it is very much open to the respondents herein to issue fresh show cause notice under Section 6B of the Essential Commodities Act and continue the confiscation proceedings.

7. With this liberty to the respondents, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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