



Writ Petition No.2799 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Writ Petition No.2799 of 2023

and

W.M.P.No.2919 of 2023

C.Ramachandran
S/o.K.Chettiya Gounder

... Petitioner

Vs.

1.The Regional Transport Officer,
Salem East, Salem.

2.The Motor Vehicles Inspector,
Grade-1, Regional Transport Office,
Salem East, Salem.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records connected with the proceedings of the first respondent in R.No.10127/A3/2022 dated 08.12.2022, quash the same and direct the respondents to release the petitioner's All India Tourist permit vehicle bearing registration No.NL-01-B-1080 which was impounded by the second respondent on 13.04.2022 and kept in the custody of first respondent.



Writ Petition No.2799 of 2023

For Petitioner : Mr.S.Sarathkumar
for Mr.R.Natesan

For Respondents : Mrs.S.Mythreya Chandru
Special Government Pleader

ORDER

The petitioner has assailed the order passed by the first respondent in R.No.10127/A3/2022 dated 08.12.2022 and sought for a consequential direction to the respondents to release the vehicle belonging to the petitioner.

2. Shorn of unnecessary details, the short facts of the case are hereunder:

2.1. The petitioner is the owner of the contract carriage bearing Registration No.NL-01-B-1080 and according to the petitioner, he has All India Tourist permit granted by the State Transport Authority, Nagaland.

2.2. The vehicle belonging to the petitioner was impounded on 13.04.2022 by second respondent on the ground that there is violation of



Writ Petition No.2799 of 2023

permit conditions. The petitioner filed a writ petition challenging impounding of the vehicle in W.P.No.12649 of 2022. By the time, the writ petition was heard finally, a demand notice dated 08.06.2022 was served on the petitioner calling upon the petitioner to pay certain amounts towards tax and penalty. This subsequent demand was taken into consideration by this Court and while disposing of the writ petition by order dated 18.08.2022, the first respondent was directed to adjudicate on the demand notice issued to the petitioner within a period of thirty days.

2.3. The petitioner gave a detailed explanation dated 10.10.2022 pursuant to the above order. The petitioner was also aggrieved by the order passed by learned Single Judge and hence, filed an appeal in W.A.No.2527 of 2022. This writ appeal came to be disposed of by the Hon'ble First Bench by order dated 31.10.2022 by taking note of the reply given by the petitioner for the demand and the first respondent was directed to deal with the same and take a decision within a period of two weeks.



Writ Petition No.2799 of 2023

WEB COPY

2.4. Pursuant to the above order, the impugned order dated 08.12.2022 came to be passed by the first respondent. By virtue of this order, the first respondent has directed the petitioner to pay a total sum of Rs.92,500/- towards tax and penalty. Aggrieved by the same, the present writ petition has been filed before this Court.

3. The respondents 1 and 2 have filed counter affidavit and they have justified the demand made against the petitioner. It is also mentioned at paragraph No.8 of the counter affidavit that the explanation given by the petitioner was considered and only thereafter, the impugned demand notice dated 08.12.2022 was issued to the petitioner.

4. Heard Mr.S.Sarathkumar, learned counsel representing Mr.R.Natesan, learned counsel on record for the petitioner and Mrs.S.Mythreya Chandru, learned Special Government Pleader, appearing for respondents.



Writ Petition No.2799 of 2023

WEB COPY

5. The main ground that was urged by learned counsel for petitioner is that the present demand made through order dated 08.12.2022 is verbatim the same to the earlier demand notice dated 08.06.2022. In order to substantiate the same, learned counsel for the petitioner also drew the attention of this Court to the various references that were made in the impugned demand notice dated 08.12.2022 and contended that there is not even a single reference to the reply given by the petitioner for the demand made by first respondent. Hence, the impugned demand dated 08.12.2022 is attacked both on the ground of non-application of mind and that such a demand was made without considering the reply given by the petitioner.

6. *Per contra*, learned Special Government Pleader appearing on behalf of the respondents submitted that the representation made by the petitioner was taken into consideration and a specific stand has been taken in this regard even in the counter affidavit. Learned Special Government Pleader submitted that the petitioner was directed to pay a sum of Rs.92,500/- towards tax, penalty and compounding fees. If this amount has



Writ Petition No.2799 of 2023

been paid by the petitioner, the vehicle would have been released to the petitioner. Learned Special Government Pleader submits that there are absolutely no ground to interfere with the impugned demand order passed by the first respondent.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. The short issue that arises for consideration is as to whether the first respondent has really taken note of the reply given by the petitioner in the earlier demand that was raised through proceedings dated 08.06.2022. It is seen from records that the petitioner had given the reply dated 10.10.2022 to the earlier demand and it does not form part of the list of reference that has been made in the impugned demand order dated 08.12.2022. Even in the body of the order, there is not even a single word about the reply given by the petitioner. In view of the same, the first respondent has merely repeated the very same order that was passed earlier on 08.06.2022. The impugned order is liable to be interfered by this Court on this ground alone.



Writ Petition No.2799 of 2023

WEB COPY

9. The petitioner has been agitating his grievance for more than a year and the vehicle is lying idle in the office of the first respondent. The more the vehicle is kept idle, it loses its value and usage. Hence, this Court is inclined to pass a via media order to ensure that the interim custody of the vehicle is given to the petitioner on payment of some amount fixed by this Court and at the same time, it can be made subject to the final orders to be passed by the first respondent on the matter being remanded back to the file of the first respondent.

10. In the light of the above discussion, the impugned order passed by the first respondent in R.No.10127/A3/2022 dated 08.12.2022 is hereby set aside. The matter is remanded back to the file of the first respondent. The first respondent is directed to consider the reply given by the petitioner on 10.10.2022 and deal with the same and if necessary, call for any clarification from the petitioner and thereafter, apply his mind and pass appropriate orders in accordance with law. This process shall be completed by the first respondent within a period of six (6) weeks from the date of receipt of a



Writ Petition No.2799 of 2023

copy of this order. The petitioner is directed to make a representation to the first respondent along with a copy of the reply dated 10.10.2022 and all the relevant documents and also a copy of this order. If the petitioner wants interim custody of the vehicle, there shall be a direction to the petitioner to deposit a sum of Rs.50,000/- [Rupees Fifty Thousand only] before the first respondent. On such deposit, interim custody of the vehicle shall be given to the petitioner with a specific undertaking that such interim custody will be subject to the final orders to be passed by the first respondent.

In the result, this writ petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

11.04.2023

Note: Issue order copy by 17.04.2023

Index : Yes/No
Speaking Order / Non Speaking Order
Neutral Citation: Yes/No
gm



Writ Petition No.2799 of 2023

WEB COPY

To

- 1.The Regional Transport Officer,
Salem East, Salem.
- 2.The Motor Vehicles Inspector,
Grade-1, Regional Transport Office,
Salem East, Salem.



WEB COPY



Writ Petition No.2799 of 2023

N. ANAND VENKATESH, J

gm

Writ Petition No.2799 of 2023

11.04.2023