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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.7328 of 2023
and W.M.P No.7413 of 2023

D.N.Lakshminarayanan

Petitioner

vs.

1.The Transport Commissioner,
Home (Transport) Department,
Government of Tamil Nadu,
Ezhilagam, 2nd Floor,
Chepauk, Chennai – 600 005.

2.The Regional Transport Officer,
Regional Transport Office,
Kumarapalayam, Namakkal District.

3.The Motor Vehicles Inspector Gr-1,
Regional Transport Office,
Kumarapalayam, Namakkal District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 2 and 3 to release the car “HYUNDAI EON” bearing registration number TN-10 BH-2987 to the Petitioner which has been seized on 08.10.2022 keeping under the custody of the second respondent.



For Petitioner : Mr.T.Sundaramurthy

For Respondents : Mr.V.Arun
Additional Advocate General
assisted by

Mr.R.Kumaravel
Additional Government Pleader

ORDER

This writ petition has been filed for issue of writ of mandamus directing the respondents to release the car “HYUNDAI EON” bearing registration Number TN-10 BH-2987 to the petitioner which was seized on 08.10.2022 and to permit the petitioner to keep the possession/custody of the car.

2.The main grievance that has been expressed by the petitioner is that he has purchased the car through a broker and the ownership was also transferred in the name of the petitioner. The RC book has also been given in the name of the petitioner. While so, the Motor Vehicle Inspector seized the car from the house of the petitioner on 08.10.2022. According to the petitioner, he is innocent and the car is now lying in the office of the Regional Transport Officer and it is exposed to rain and shine. Hence, the petitioner has approached this Court for a direction to the respondents to release the vehicle and to enable the petitioner to keep the custody of the car.



3. The learned Additional Advocate General appearing on behalf of the respondents submitted that between the period 01.11.2020 and 22.09.2022, more than 290 BS IV Vehicles and 25 other vehicles have been fraudulently registered by taking advantage of the backlog entry through fake User ID. In view of the same, the Regional Transport Officer through letter dated 14.11.2022 directed the cancellation of the Registration Certificate under Section 55 of the Motor Vehicles Act.

4. The learned Additional Advocate General further submitted that there has been absolutely no co-operation from the side of the persons, who had purchased the car and they are not giving the particulars of the person from whom they purchased the car and the price that was paid and the identity of the person who sold the car. The learned Additional Advocate General submitted that if the petitioner co-operates, it will enable the respondents to find out the real culprits and proceed further against them.

5. Insofar as the relief sought for in the writ petition, the learned Additional Advocate General submitted that if the car is given back to the petitioner, there is no assurance that the petitioner will utilize the car. Since the registration itself is canceled, there will be no insurance for the car and if in case, the car meets with any accident, it will further complicate the issue and the third parties will also be affected.

Therefore, the learned Additional Advocate General strongly objected to release of the



car to the petitioner. The learned Additional Advocate General insisted that the petitioner should appear before the concerned Regional Transport Officer and give their statement and co-operate for the investigation to enable the respondents to nab the culprit and proceed against them in accordance with law.

6. The learned counsel for the petitioner in reply to the above submissions contended that the petitioner will cooperate with the concerned Regional Transport Officer and they will attend to the proceedings and provide with all the details regarding the person from whom the car was purchased, the amount that was paid etc. The learned counsel further submitted that the petitioner will give an undertaking affidavit before the Regional Transport Officer and will specifically undertake not to use the car, until a final decision is taken. The petitioner is also willing to surrender his original RC book before the concerned RTO. The learned counsel submitted that the petitioner will comply with any condition as may be imposed by this Court. The petitioner wants the possession of the car to ensure that it does not become a wreck/scrap by remaining in the RTO office and getting exposed to rain and shine. The learned counsel submitted that the petitioner will atleast be able to maintain the car by keeping it in house even though it will not be used until a final decision is taken.

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



also the materials available on record.

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8.The present case involves a huge racket which has cheated people by selling them vehicles which are in the category of BS IV by manipulating records. It is quite obvious that even some of the officials belonging to the RTO are part of the racket. Without their involvement, it is not possible to get the details of the backlog entries and register the vehicles. Hence, a thorough investigation is required, since the respondents are supposed to comply with the mandatory directions issued by the Apex Court in this regard.

9.On the other hand, if the vehicles are going to be kept in the RTO office, it will be exposed to rain and shine and ultimately, it will become a scrap over a period of time. Under such circumstances, it will not be of any use either to petitioner or to the authorities. It is only under these circumstances, the learned single Judge of this Court had passed earlier orders permitting the petitioners therein to take custody of the car by giving undertaking. Some consistency must be maintained while passing orders and this Court is also inclined to permit the petitioner to take custody of the car subject to the following conditions:

a) The petitioner is directed to give an undertaking before the concerned RTO that

the car will be kept in the residence and it will not be put to use at any point of



time.

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- b) The petitioner shall surrender the original RC book and also the original insurance policy to the concerned RTO.
- c) The petitioner shall attend the enquiry conducted by the RTO or any other authority and shall co-operate in providing the details as to the person from whom the car was purchased, the amount that was given etc. The petitioner is permitted to take back the car only on the strict compliance of this condition.
- d) The petitioner shall submit a monthly report before the concerned RTO reiterating that the vehicle has not been put to use and that the undertaking given at the time of taking custody of the car is strictly complied with.
- e) The vehicles that have been fraudulently registered have been identified and the Registration Numbers are already available with the authorities. Hence, there shall be a direction to the 1st respondent to send the details of these vehicles to all the Police Stations through the Superintendent of Police / Commissioner of Police and the Traffic Police shall ensure that the vehicles which are yet to be seized are seized and handed over to the concerned RTO office. There shall be a perfect co-operation between the Transport Commissioner and the Police



officials in this regard.

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- f) There shall be a direction to identify all the accused persons who are involved in this racket and proceed further with the investigation and complete the same, as expeditiously as possible and
- g) The Director General of Police, Tamil Nadu shall issue a circular to all the Police Stations concerned in Tamil Nadu to ensure that not a single vehicle which falls under the category of BS IV which has been fraudulently registered is allowed to ply in the roads and any vehicle falling under this category can be seized and it shall be handed over to the concerned RTO office. A copy of this order shall also be marked to the Director General of Police, Tamil Nadu in this regard.

10. This writ petition is disposed of with the above directions. No Costs.

Consequently, connected miscellaneous petition is closed.

20.04.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation Case : Yes/No
ssr

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N. ANAND VENKATESH, J.

SSR

To

- 1.The Transport Commissioner,
Home (Transport) Department,
Government of Tamil Nadu,
Ezhilagam, 2nd Floor,
Chepauk, Chennai – 600 005.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.
- 3.The Regional Transport Officer,
Regional Transport Office,
Kumarapalayam, Namakkal District.
- 4.The Motor Vehicles Inspector Gr-1,
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