



W.P.No.18834 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18834 of 2023

Shaik Mahaboob Basha

... Petitioner

Vs.

1. The District Collector,
Office of the Collectorate, 1st Floor,
Kancheepuram District.

2. The Inspector of Police,
Sunguvarchatram Police Station,
Kancheepuram District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 17.04.2023.

For Petitioner : Mr.S.Mathivanan

For Respondents : Mr.P.Sathish
Additional Government Pleader



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ORDER

This Writ Petition has been filed for a direction to the first respondent to consider the representation of the petitioner dated 17.04.2023.

2. The case of the petitioner is that the petitioner purchased a JCB Vehicle bearing Registration No.AP 39 LT 0080 on 05.12.2021 at Andhra Pradesh and subsequently, the said vehicle was seized by the respondent Police by falsely implicating a case in Crime No.14 of 2022 for illegal excavation of sand under Sections 379 & 430 IPC & Section 21(1) of Mines and Mineral (Development and Regulation) Act 1957. The petitioner filed a petition for return of property (JCB) in CrI.M.P.No.340 of 2022 before the learned Principal District and Sessions Judge, Kancheepuram and the same was allowed with certain conditions, but the respondent Police did not produce the vehicle. Hence, the petitioner filed CrI.O.P.No.11952 of 2022 seeking direction to the Police to return his vehicle as per the order of the Sessions Court. But the respondent Police preferred a Criminal Revision Petition in CrI.R.C.No.532 of 2022 before this Court as against the order in CrI.M.P.No.340 of 2022 and CrI.O.P.No.11952 of 2022 in which, the Court



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has directed the Police to complete the investigation and file a charge sheet within a period of two months, failing which, the Criminal Revision Petition shall stand dismissed and the order passed by the learned Sessions Judge would come into force automatically without further reference to this Court. Again the respondent Police failed to comply the order of the Court and they filed a petition before the learned Principal District and Sessions Judge, Chengalpattu in Crl.M.P.No.1487 of 2022 for confiscation of the JCB Vehicle and the same was allowed on 30.11.2022 and the Investigation Officer was directed to hand over the JCB Vehicle to the Revenue Officials who are empowered to proceed with the confiscation, following the procedure under the Mines and Minerals Rules / Act after a month, enabling the aggrieved owner of the vehicle to prefer Revision before the Appellate Court. Hence, the petitioner preferred a Criminal Revision Petition in Crl.R.C.No.1689 of 2022 along with stay petition in Crl.M.P.No.19894 of 2022 before this Court against the order passed in Crl.M.P.No.1487 of 2022 and the same was disposed by this Court with a liberty to the petitioner to approach the Competent Authority for return of the vehicle. Therefore, the



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petitioner has sent a representation on 17.04.2023 to the first respondent for return of his vehicle, but the same has not been considered till date. Hence, the petitioner has filed the present Writ Petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that admittedly the confiscation proceedings was allowed in CrI.M.P.No.1487 of 2022 by the learned Principal District and Sessions Judge, Chengalpattu as against which, the petitioner preferred Criminal Revision Petition in CrI.R.C.No.1689 of 2022 along with stay petition in CrI.M.P.No.19894 of 2022 seeking for return of the vehicle. While disposing the same, this Court granted liberty to the petitioner to approach the competent authority for return of his vehicle. Therefore, the petitioner sent a representation on 17.04.2023 to the first respondent for return of his vehicle, but the same has not been considered till date. Hence, this Court may issue a direction to the first respondent to consider the representation of the petitioner dated 17.04.2023 and pass appropriate orders, within a time frame that may be fixed by this Court.



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4. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

5. The facts in the present case are not in dispute. Admittedly, the petitioner's vehicle was seized in Crime No.14 of 2022 for illegal excavation of sand under Sections 379 & 430 IPC & Section 21(1) of Mines and Mineral (Development and Regulation) Act 1957 without obtaining permission from the Competent Authority. It is also equally undisputed fact that that the respondent Police filed a petition before the learned Principal District and Sessions Judge, Chengalpattu in CrI.M.P.No.1487 of 2022 for confiscation of the JCB Vehicle and the same was allowed on 30.11.2022 directing the Investigation Officer to hand over the JCB Vehicle to the Revenue Officials who are empowered to proceed with the confiscation, following the procedure under the Mines and Minerals Rules / Act after a month, enabling the aggrieved owner of the vehicle to prefer Revision before the Appellate Court and the same was challenged by the petitioner before this Court in CrI.R.C.No.1689 of 2022. This Court, on 28.02.2023



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directed the petitioner to work out his remedy before the Competent Authority with regard to return of vehicle and the petitioner by way of representation dated 17.04.2023 approached the Competent Authority, however the same has not been considered.

6. In view of the above, this Court is inclined to issue a direction to the first respondent to conclude the confiscation proceedings within a period of two months from the date of receipt of a copy of this order after providing an opportunity of hearing to the petitioner.

7. With the above direction, this Writ Petition is disposed of. No costs.

27.06.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

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Kancheepuram District.
2. The Inspector of Police,
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Kancheepuram District.



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M.DHANDAPANI, J.

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