



W.P. (MD) No. 11393 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P. (MD) No. 11393 of 2020

and

W.M.P. (MD) Nos. 9967 and 9969 of 2020

K.Jayanth

... Petitioner

Vs.

1. The Regional Transport Officer,
Trichy (West). Trichy.

2. Mrs. Usha Kumar

3. Deepak Kumar

4. Sruthi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorari, calling for the records comprised in Na.Ka.No. 18005/A2/2020 dated 04.08.2020 on the file of the First Respondent quash the same as arbitrary, illegal and contrary to the provisions of the Motor Vehicles Act, 1988.

For Petitioner

: Mr. K.Prabhakar



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For Respondent

: Mr. D.Gandhiraj
Special Government Pleader for R1

Mr. K.P.Narayanakumar
for Mr. A.Balakrishnan for R2 to R4

ORDER

Heard Mr. K.Prabhakar, Learned Counsel for the Petitioner, Mr. D.Gandhiraj, Learned Special Government Pleader appearing for the First Respondent and Mr. K.P.Narayanakumar, Learned Counsel appearing for the Second to Fourth Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that is father, viz., R.Kumar, during his lifetime had transferred the ownership of Toyota Innova Crysta Car bearing Registration No. TN 45 BL 1949 in his favour on 01.02.2020 by submitting the prescribed forms, which has been registered under the relevant provisions of the Motor Vehicles Act, 1988. After the death of the said R.Kumar on 06.03.2020, the Second to Fourth Respondents, who are his other legal heirs, had objected to the transfer of the ownership of the vehicle in the name of the



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Petitioner for which the First Respondent by Proceedings in Na. Ka. No. 18005/A2/2020 dated 04.08.2020 had called upon the Petitioner to attend an enquiry on 18.08.2020 in that regard, which is impeached in this Writ Petition.

3. It is evident that the impugned proceedings is merely a notice for conducting enquiry on the objections raised by the Second to Fourth Respondents regarding the transfer of ownership of the vehicle from the said R.Kumar in favour of the Petitioner. The consisted legal position has been reiterated by the Hon'ble Supreme Court of India in ***Union of India -vs- Kunisetty Satyanarayana*** [(2006) 12 SCC 28] that a charge memo or show cause notice cannot be challenged before the completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion. It would be useful here to extract the relevant passages from the said decision which read as follows:-

*“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide **Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh** [JT 1995 (8) SC 331], **Special***



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Director -vs- Mohd. Ghulam Ghouse (AIR 2004 SC 1467),
Ulagappa -vs- Divisional Commissioner, Mysore [2001(10)
SCC 639], **State of U.P. -vs- Brahm Datt Sharma** (AIR 1987
SC 943) etc.

14. *The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or*



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otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in this Writ Petition in the reply to be submitted to the First Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for the Court to interfere at this pre-mature stage of the matter.



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4. In such circumstances, without expressing any view on the merits of the controversy involved in the matter, the Writ Petition is disposed on the following terms:-

- (i) it shall be incumbent upon the Petitioner to submit his explanation in the enquiry proposed to be conducted by the First Respondent, which is challenged in the Writ Petition;
- (ii) in the event of not being satisfied with the explanation submitted by the Petitioner in such enquiry conducted following the prescribed procedure after affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard, a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment;
- (iii) if any adverse decision is taken against the Petitioner, he may then pursue legal remedies in accordance with law;
- (iv) consequently, the connected Miscellaneous Petitions are closed; and
- (v) there shall be no order as to costs.

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Index : Yes/No
NCC : Yes/No

Note: Issue order copy by 23.01.2023.

To

The Regional Transport Officer,
Trichy (West),
Trichy.



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P.D.AUDIKESAVALU,J.

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