



WP (MD) No.18008 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD)No.18008 of 2023

Regunathan

: Petitioner

Vs.

1.The District Revenue Officer,
Pudukottai District.

2.The Inspector of Police,
CSCID Police Station,
Pudukottai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus directing the respondents to release the petitioner's Mahendira Bolero City Pik-UP 1.4 PS vehicle bearing Reg.No.TN-55-BS-5094 pertaining to the case in Crime No.63 of 2023 on the file of the second respondent to the petitioner, based on his representation dated 04.07.2023 within a stipulated time limit.



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For Petitioner : Mr.S.Mohammad Kasim

For Respondents : Mr.M.Sarangan,
Additional Government Pleader

ORDER

This writ petition is filed for a mandamus directing the respondents to release the petitioner's vehicle, Mahendira Bolero City bearing Reg.No.TN-55-BS-5094, by considering the petitioner's representation dated 04.07.2023.

2.According to the petitioner, he is the owner of the vehicle and the same was seized by the second respondent in connection with the case in Crime No.63 of 2023 on 08.06.2023 for the alleged offence under Section 6(4) of the Tamil Nadu Scheduled Commodities [RDCS] Order, 1982, r/w Section 7(1)(a)(ii) of the Essential Commodities Act. The petitioner claims that he is innocent and has submitted a representation for release of his vehicle on 04.07.2023. However, the same was not considered and therefore, this writ petition is filed.

3.Learned Counsel for the petitioner, by relying upon the orders passed in WP(MD)No.16337 of 2020, dated 20.11.2020, submitted that in similar



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circumstances, this Court has ordered for the release of vehicle, which was seized under the provisions of the Essential Commodities Act (hereinafter referred to as 'the Act'), on certain conditions. Therefore, he sought for appropriate orders.

4.Learned Additional Government Pleader, on instructions, submitted that this petitioner is an accused in Crime No.63 of 2023 and he is the owner of the vehicle, in which, the ration rice meant for public distribution to the tune of 1000kg was seized by the second respondent police. The petitioner and his driver, on seeing the police party, abandoned the vehicle and ran away. Therefore, the second respondent police has seized the vehicle on 08.06.2023 in the presence of police officials. He further submitted that any vehicle seized under the provisions of the Essential Commodities Act is liable to be confiscated u/s.6A of the Act.

5.This Court paid it's consideration to the rival submissions made on either side and also to the materials placed on record.

6.The petitioner's vehicle was seized by the second respondent on 08.06.2023 that the petitioner has illegally transported PDS rice meant for public distribution. A criminal case has also been registered in Crime No.63 of 2023 as



against the petitioner and another person for the offence under Section 6(4) of the Tamil Nadu Scheduled Commodities [RDCS] Order, 1982, r/w Section 7(1)(a)(ii) of the Essential Commodities Act.

7.As rightly pointed out by the learned Additional Government Pleader, the vehicle, if any, seized under the provisions of the Essential Commodities Act is liable to be confiscated u/s.6A of the Act.

Section 6A of the Essential Commodities Act reads as under:-

“6A. Confiscation of essential commodity.- (1) Where any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, a report of such seizure shall, without unreasonable delay, be made to the Collector of the district or the Presidency town in which such essential commodity is seized and whether or not a prosecution is instituted for the contravention of such order, the Collector may, if he thinks it expedient so to do, direct the essential commodity so seized to be produced for inspection before him, and if he is satisfied that there has been a contravention of the order may order confiscation of -

- (a) the essential commodity so seized;*
- (b) any package, covering or receptacle in which such essential commodity is found; and*
- (c) any animal, vehicle, vessel or other conveyance used in*



carrying such essential commodity:

Provided that without prejudice to any action which may be taken under any other provision of this Act, no foodgrains or edible oilseeds in pursuance of an order made under section 3 in relation thereto from a producer shall, if the seized foodgrains or edible oilseeds have been produced by him, be confiscated under this section:

Provided further that in the case of any animal, vehicle, vessel or other conveyance used for the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay, in lieu of its confiscation, a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried by such animal, vehicle, vessel or other conveyance.

(2) Where the Collector, on receiving a report of seizure or on inspection of any essential commodity under sub-section (1), is of the opinion that the essential commodity is subject to speedy and natural decay or it is otherwise expedient in the public interest so to do, he may-

(i) order the same to be sold at the controlled price, if any, fixed for such essential commodity under this Act or under any other law for the time being in force; or

(ii) where no such price is fixed, order the same to be sold by public auction: Provided that in case of foodgrains, the Collector may, for its equitable distribution and availability at fair prices, order the same to be sold through fair price shops at the price fixed by the Central Government or by the State Government, as the case may be, for the retail sale of such foodgrains to the public.



(3) *where any essential commodity is sold, as aforesaid, the sale proceeds thereof, after deduction of the expenses of any such sale or auction or other incidental expenses relating thereto, shall-*

(a) where no order or confiscation is ultimately passed by the Collector,

(b) where an order passed on appeal under sub-section (1) of section 6C so requires, or

(c) where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under this section, the person concerned is acquitted, be paid to the owner thereof or the person from whom it is seized.”

8.As pointed out by the petitioner's Counsel, this Court in WP(MD)No. 16337 of 2020 has passed an order to release the vehicle, subject to certain conditions. When a similar such order was challenged before a Division Bench of this Court in ***Deputy Commissioner of Civil Supplies v. Damodaran*** [2008-1-LW-1020], the Division Bench has held as follows:-

“13. ... a) In case any essential commodity or any commodity, package, vehicle, animal, etc., is seized or confiscated and the person from whom such commodity or vehicle is seized, or the owner of the commodity or vehicle intends to get an order for release of the commodity or vehicle, they should first avail the alternative remedy before the competent authority for release of such commodity or vehicle



for the grounds and reasons as may be taken by the aggrieved persons;

b) In case such application for release of the commodity, package or vehicle is filed, the competent authority / appellate authority will dispose of the application immediately, preferably within a week. In case if any adverse decision, the ground should be communicated to the applicant;

c) Only when the competent authority / appellate authority fail to discharge their duty, the concerned person may move straight away before the High Court under Article 226 of the Constitution of India for appropriate relief;

d) However, it is always open to the High Court to pass appropriate order under Article 226, but generally it should be reluctant to grant such relief if the party fails to take recourse to alternative remedy.”

9. Here, the petitioner's vehicle was seized on 08.06.2023. The petitioner has submitted a representation on 04.07.2023 for the release of vehicle and the same was served on the respondents on 05.07.2023. But, it was not acted upon. The respondents, though claim that they are about to confiscate the vehicle, have not initiated any proceedings u/s.6A of the Essential Commodities Act, till date.

10. Considering the facts and circumstances of the case and in view of the



fact that if the vehicle is kept without any use by exposing it to sun and rain, it would certainly lose its value, the first respondent is directed to consider the representation of the petitioner dated 04.07.2023 and release the vehicle in question to the petitioner on the following conditions:

- “(i)The petitioner shall produce necessary documents before the first respondent to establish and to prove his ownership of the vehicle in question;
- (ii)The petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with the first respondent;
- (iii)The petitioner shall give an undertaking that he will not use the vehicle or any other vehicle for any illegal activities and also he will not indulge in such activities in future;
- (iv)The vehicle shall be produced before the respondents as and when required.”

11.After fulfilling all the four conditions, the first respondent shall release the vehicle in question to the petitioner with a specific condition that he shall not alienate or encumber the vehicle in question till the disposal of the proceedings before the authorities concerned. It is made clear that it is open to the authorities to take appropriate action against the petitioner, in case, he violates any one of the conditions stipulated in this order. It is also made clear that this is only an interim



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arrangement and the respondents are at liberty to pass appropriate orders for confiscation u/s.6A of the Essential Commodities Act, without any interference.

Accordingly, this writ petition is disposed of. No costs.

Index : Yes / No
Internet : Yes
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27.07.2023

To

- 1.The District Revenue Officer,
Pudukottai District.
- 2.The Inspector of Police,
CSCID Police Station,
Pudukottai District.



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B.PUGALENDHI, J.

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