



WP (MD) No.23221 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: .09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.23221 of 2023

Muthupandi

... Petitioner

Vs

1.The Sub Collector

cum Revenue Divisional Officer,
Revenue Divisional Office,
Paramakudi,
Ramanathapuram District.

2.The Assistant Director,

Tamil Nadu Mines and Minerals Department,
Ramanathapuram District.

3.The Tahsildar,

Paramakudi,
Ramanathapuram District.

4.The Inspector of Police,

Nainarkoil Police Station,
Ramanathapuram District.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents to release the petitioner Tractor Vehicle bearing Reg.No.TN 65 F 4721 and its trailer bearing Reg.No.TN 65 F 4720 forthwith in accordance with law within a stipulated time period.

For petitioner : Mr.J.Gunaseelan Muthiah

For Respondent : Mr.M.Sarangan,

Nos.1 to 3 Additional Government Pleader

ORDER

The writ petition is filed for a writ of mandamus directing the respondents to release the petitioner's tractor bearing registration No. TN 65 F 4271 and its trailer bearing registration No.TN 65 F 4720 within the time stipulated by this Court.

2.The learned Counsel for the petitioner submits that the petitioner is the owner of the vehicle, a tractor bearing registration No. TN 65 F 4271 and its trailer bearing registration No.TN 65 F 4720. The petitioner was using the



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vehicle for the purpose of agriculture. However, the vehicle was seized by the respondents for transporting sand. The petitioner has filed a writ petition before this court in W.P(MD)No.1995 of 2020, wherein this Court has directed the respondent to release the vehicle imposing certain conditions by order dated 31.01.2020. However the petitioner was affected with Covid -19 and therefore, he did not take necessary steps to get his vehicle released. Now the petitioner has filed this writ petition for a further direction to the respondents to release his tractor and trailer as stated supra.

3.The learned Special Government Pleader appearing for the respondents submits that the petitioner's tractor and trail were involved in illegal transportation of sand and as per Section 21(4) of the Mined and Minerals (Development and Regulation) Act, 1957 only the competent Court is having an authority to release the vehicle and the respondents are not the competent authorities to release the vehicle and therefore, prays for dismissal of this writ petition.

4.This Court considered the rival submissions made.



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5.The petitioner's vehicle has been seized for the involvement in illegal transportation of sand. The respondents claim that the only authority for releasing of the vehicle under Section 21(4A) of the Mines and Minerals (Development and Regulation) Act 1957 is the competent authority and the respondents are not the competent authorities to release the vehicles confiscated. As per Section 21 (4A) of the Mines and Minerals (Development and Regulation) Act, the power of dispose of the materials seized under the Act is vested with the concerned competent court and the same is extracted under:

Section 21. Penalties:

... ..

(4-A) Any mineral, tool, equipment, vehicle or any other thing seized under sub section (4), shall be liable to be confiscated by an order of the Court competent to take cognizance of the offence under sub section (1) and shall be disposed of in accordance with the directions of such Court.

6.A Hon'ble Division Bench of this Court in Rev.Application Writ (MD)No.80 to 82 in WP(MD)No.19936 of 2017, 7595 and 21485 of



2018 has observed as follows:

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*“9. As per these provisions, the power of seizure is certainly available with the officer or authority empowered accordingly. Such a seizure would involve the actual mineral, machinery by way of tool and equipment, vehicle or such incidental materials. As per Section 21(4A) of the M&M Act, such seized materials are liable to be confiscated by an order of Court competent to take cognizance of the offence under Section 21(1) of the M&M Act and the seized materials are to be disposed of in accordance with the directions of such Court. **Taking note of the aforesaid provisions, we have held that what is permissible to the Revenue Officials, namely the officer authorized, is only the seizure and not confiscation or disposal of such materials.** The said reasoning adopted, in our considered view, does not require any relook, though we respectfully agree with the learned Advocate General that there is a factual error in coming to the conclusion that insertion has taken place only by Act 10 of 2015 which is, in fact, only an amendment. We may note that the Act does not specifically deal with the issue qua release. Once we hold that the power of confiscation lies with the Court alone, the question qua release shall also be decided by it alone. We are dealing with a penal provision in a regulatory statute and*



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therefore the word; will have to be given the actual meaning. Thus, confiscation is the rule and release in the consequence, of an adjudication. The question of release would arise only on the decision as to whether confiscation is required or not.

18. We have already dealt with the Rule making power available in the order under Review. Such a power drawn by way of delegated legislation can never be considered as affront to the parent Act. Therefore, though for different reasons, we hold that the power of release or confiscation certainly is not available with the person authorized.

7.Further this Court in Criminal Revision Case Numbers.755 of 2021 etc., batch has held as follows:

“16. In the decision in State of M.P. v. Uday Singh ((2020) 12 SCC 733) cited supra, the Apex court has heavily come down against the anti-social elements that pose a danger to the natural environment and recognized the significance of confiscation proceedings as the effective deterrent measure to eradicate such hazards while dealing with the cases of illegal mining.

17. The Allahabad High Court, in Akhilesh Kumar vs. State of U.P. and another cited supra, when confronted with



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the conflicting decisions, clarified the issue based on the decision of a Division Bench of the same court and rendered a decision against release of the vehicle pending confiscation proceedings.

18. Once again coming to sub~section (4~A) of Section 21 of the Mines and Minerals (Development & Regulation) Act, 1957, it emphasizes that any mineral, tool, equipment, vehicle or any other thing seized under sub~section (4), shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub~section (1) and shall be disposed of in accordance with the directions of such court, which means that disposal of the seized vehicles shall be in accordance with the directions of such Court viz., the Special Court.”

8. In view of the above settled position of law, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. No costs.

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B.PUGALENDHI, J.

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