



W.P.(MD)No.21540 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.21540 of 2023

Ashokkumar

... Petitioner

versus

1. The Revenue Divisional Officer,
Office of the District Collectorate,
Madurai District.

2. The Thasildar,
Flying Squad (Civil Supplies),
Madurai District.

3. The Inspector of Police,
CSCID – Madurai Police Station,
Madurai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents to release the Auto bearing Reg.No.TN59 BJ 2628, seized on 01.07.2023 which is under the custody of the 3rd respondent, by considering the petitioner's representation dated 16.08.2023 within a time frame that may be stipulated by this Court.



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For Petitioner : Mr.G.Manikandan
For R1 and R2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader
For R3 : Mr.P.Kottaichamy,
Government Advocate (Crl. side)

ORDER

The petitioner's Auto bearing Registration No.TN59 BJ 2628 was seized by the 2nd respondent on 30.06.2023 in the case registered in Crime No.108 of 2023 for the offence under Section 4 of the Tamil Nadu Schedule Commodities (RDCS) Order, 1982 and Section 7(1)(a) (ii) of Essential Commodities Act, 1955.

2. The petitioner has filed this writ petition for a writ of mandamus to release Auto bearing Registration No.TN59 BJ 2628. The learned Counsel appearing for the petitioner by referring the orders of this Court in WP(MD)No.4265 of 2023 submits that in similar issue, this Court granted custody of the vehicle, which involved in similar offences.



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3.This Court by following the decision of the Hon'ble Supreme Court in ***Sunderbhari Ambalal Desai and others Vs State of Gujarat***, reported in ***(2002) 10 SCC 283*** has allowed the writ petition with certain directions.

4.Section 6(A) of the Essential Commodities Act enables the officers responsible to confiscate any commodity so seized and vehicle which has been used for transportation. However, the same has to be proceeded without any unreasonable delay by the District Revenue Officer of the District. It appears that the petitioner's auto, which has been seized on 30.06.2023 has not been proceeded under Section 6(A) of the Act and no notice for confiscation has been issued.

5. In ***Sunderbhai Ambalal Desai and others Vs State of Gujarat***, reported in ***(2002) 10 SCC 283***, the Hon'ble Supreme Court has held as follows:

“17.In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations



for a long period. It is for the magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

6. In view of the decision of the Hon'ble Supreme Court *cited supra* and the orders of this Court passed in WP(MD)No.4265 of 2023, this writ petition is disposed of with the following directions:

(i) The petitioner shall produce a surety for a sum of Rs.25,000/- before the respondents;

(ii) The petitioner shall file an undertaking affidavit that he would produce the vehicle as and when required by the respondents for enquiry;

(iii) The petitioner shall not alienate or encumber the vehicle till the proceedings are completed and shall co-operate for the proceedings under Section 6(A) of the Essential Commodities Act. No costs.

04.09.2023

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

To

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B.PUGALENDHI, J.

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