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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **14.08.2024**

CORAM

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

W.P.No. 14852 of 2024

Manthiragiri

... Petitioner

..Vs..

1. The Additional Superintendent of Police
Prohibition Enforcement Wing
Office of the Superintendent of Police
Coimbatore District.
2. The Additional Superintendent of Police
Protection of Women and Children Welfare Department
Ground Floor, Old Building
Collectorate Campus
Coimbatore – 641 018.
3. The Deputy State Tax Officer
Election flying squad
Sulur -116 Constitution
Coimbatore District.
4. The Inspector of Police,
Sulthanpet Police Station
Coimbatore,
Coimbatore District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the second respondent in his confiscation order in C.No.06/ADSP/CWC/Veh.Con/CBE/2024 dated 17.05.2024, quash



release the petitioner's vehicle namely TOYOTA ETIOS LIVA bearing registration No. TN-37-DB-6514 which was seized by the fourth respondent on 18.04.2024.

For Petitioner	:: Mr. S.N.Arun Kumar
For Respondents	:: Mr. S.Udayakumar Government Advocate (Crl. Side)

ORDER

The petitioner claiming ownership of the vehicle bearing Registration No. TN-37-DB-6514 Toyota Etios Liva, which was seized for transporting 14 old Chief liquor bottles, each contain 180 ml. During the Election Code of Conduct, surprise take, as resulted in the above seizure and a case in Crime No. 115 of 2024 for offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act came to be registered.

2. The petitioner herein by way of Writ Petition, challenge the confiscation order by the second respondent dated 17.05.2024 on the ground that under Section 14(3) only if the liquor possessed not satisfactorily and any action can be taken which includes seizure of the vehicle; whereas in this case, the possession of 14 bottles of 180 ml each liquor is less than 4.5 liters of IMFL which is exempted under



G.O.Ms.No. 14, H.P & EVI Department dated 09.06.2017.

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3. In the counter filed by the Inspector of Police / fourth respondent, it is stated that the vehicle been confiscated and further proceedings been contemplated. Referring to Section 14(5) of the Act which provides for appeal against the confiscation order, it is contended that the petitioner ought to have preferred statutory appeal before the Sessions Court within 30 days but he has filed the Writ Petition without availing the statutory remedy.

4. This Court on perusing the FIR registered in Cr.No. 115 of 2024, dated 19.04.2024, came to be registered on the written complaint given by the Deputy State Tax Officer, Coimbatore, now Election Flying Squad No.9, Sulur, the vehicle been seized for carrying a person, who was in his possession having 14 IMFL bottles each contain 180 ml. Hence, the consfication proceedings have been initiated after causing show cause notice. The Toyoya Etios Liva bearing Registration No. TN 37-DB-6514 been confiscated under the impugned order.

5. The petitioner though as respondent to the show cause notice by appearing in person and making his written submissions, the



impugned order does not disclose why the said explanation not acceptable. The impugned order only says that on 19.04.2024, being the election dates on 17.04.2024 to 19.04.2024 of the TASMAC shops were closed however the petitioner was in possession of liquor and also transported it. This Court finds that whether the Government Order referred above which permits possession of IMFL upto 4.5 liters personally consumed considered while passing the impugned order or not, the Writ Petition stands disposed of directing the petitioner to approach the Sessions Court, who is the competent authority under Section 14(5) of the Prohibition Act. The delay in pursuing the Writ Petition shall stand condoned. The appeal shall be filed within 30 days from today. On such application, the appellate authority shall consider the case of the prosecution as well the G.O.Ms.No. 14, H.P & EVI Department dated 09.06.2017 and pass appropriate order.

14.08.2024

vsg
Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order

To

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Prohibition Enforcement Wing
Office of the Superintendent of Police
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Dr.G.JAYACHANDRAN, J.,

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