



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.15988 of 2024

Satish Kumar

.. Petitioner

Vs.

1.The Transport Commissioner,
Home (Transport) Department,
Government of Tamil Nadu,
Ezhilagam 2nd Floor,
Chepauk, Chennai.

2.The Regional Transport Officer,
Regional Transport Office,
Tiruppur South,
Tiruppur District.

3.The Motor Vehicle Inspector GR-I,
Regional Transport Office,
Tiruppur South,
Tiruppur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd and 3rd respondents to release the 'Toyota Innova' car bearing Registration No.TN-22-CH-2627 to the petitioner within a stipulated time period.



WEB COPY



For Petitioner .. Mr.K.Myilsamy
For Respondents .. Mr.V.Nanmaran,
Addl. Government Pleader

ORDER

This Writ Petition has been filed in the nature of a Mandamus seeking direction to the 2nd and 3rd respondents, the Regional Transport Officer, Tiruppur South, Tiruppur District and the Motor Vehicle Inspector Grade – I, Tiruppur South, Tiruppur District, to release 'Toyota Innova' car bearing Reg. No.TN-22-CH-2627 to the petitioner.

2.In the affidavit filed in support of the writ petition, it had been stated that the petitioner had purchased a third hand Toyota Innova car bearing Reg. No.TN-22-CH-2627 through a car broker. The vehicle was hypothecated with Shiram Transport. The petitioner has been paying the monthly instalments to the financier. The previous owner was one Aravinth Kumar. The petitioner had thereafter submitted the documents to the 2nd respondent for transfer of vehicle ownership. The name was also transferred in the name of the petitioner. However, in December 2022, the 2nd and 3rd



respondents seized the car belonging to the petitioner. Thereafter, they had not passed any order. It is complained that no enquiry was conducted. It is further complained that before seizure no notice was issued. It had been stated that the petitioner came to understand that BS-IV vehicles were fraudulently registered by taking advantage of backlog entries through fake user ID. The petitioner claims innocence of such procedure and claims to be a bonafide purchaser. It is therefore contended that a Mandamus must be issued to release the vehicle to the petitioner.

3.The learned counsel for the petitioner placed reliance on the order of a learned Single Judge in ***W.P.No.7322 of 2023, R.Yuvaraj Vs. The Transport Commissioner, Home (Transport) Department and others*** wherein, by an order dated 20.04.2023 the learned Single Judge in similar circumstances had issued two sets of direction. The first one was with respect to release of the vehicle providing certain undertakings and the second one was to direct investigation as to how such fraudulent registration were done. Insofar as the first set of direction is concerned, it had been observed and stated as follows in that particular order:



“9. On the other hand, if the vehicles are going to be kept in the RTO office, it will be exposed to rain and shine and ultimately, it will become a scrap over a period of time. Under such circumstances, it will not be of any use either to petitioner or to the authorities. It is only under these circumstances, the learned single Judge of this Court had passed earlier orders permitting the petitioners therein to take custody of the car by giving undertaking. Some consistency must be maintained while passing orders and this Court is also inclined to permit the petitioner to take custody of the car subject to the following conditions:

- a) The petitioner is directed to give an undertaking before the concerned RTO that the car will be kept in the residence and it will not be put to use at any point of time.*
- b) The petitioner shall surrender the original RC book and also the original insurance policy to the concerned RTO.*
- c) The petitioner shall attend the enquiry conducted by the RTO or any other authority and shall co-operate in providing the details as to the person from whom the car was purchased, the amount that was given etc. The petitioner is permitted to take back the car only on the strict compliance of this condition.*
- d) The petitioner shall submit a monthly report before the concerned RTO reiterating that the vehicle has not been put to use and that the undertaking given at the time of taking custody of the car is strictly complied with.”*



WEB COPY

4.The learned counsel for the petitioner stated that the petitioner herein would also abide by those conditions and provide necessary undertaking as stipulated in that order.

5.However, on the side of the respondents, it is contended that this particular vehicle bearing Reg. No.TN-22-CH-2627 had been registered in the office of the Regional Transport Office, Chennai (South West) by using forged ID and it was sold to the petitioner herein and transfer of ownership was effected in the office of the Regional Transport Office, Tiruppur South with effect from 29.12.2021. Therefore, a request was placed by the Regional Transport Office, Chenna (South West) to cancel the Registration Certificate. The vehicle was seized by the 3rd respondent, Motor Vehicles Inspector Gr-I, Regional Transport Office, Tiruppur South, Tiruppur and the Registration Certificate was also cancelled under Section 55(5) of the Motor Vehicles Act, 1988. The learned counsel for the petitioner states that the petitioner has no knowledge about the cancellation of the registration. These are issues which are beyond the scope of this Writ Petition.



6. So far as the return of vehicle is concerned, the petitioner seeks that he would give necessary undertaking as stated aforementioned and that he would not put the vehicle to any use and that he would surrender the original Registration Certificate, Insurance Policy and would also submit monthly report that the vehicle was not put into use, before the Regional Transport Officer and would attend the enquiry conducted by the Regional Transport Officer. The said undertakings are crystallized once again hereunder:

a) The petitioner is directed to give an undertaking before the concerned RTO that the car will be kept in the residence and it will not be put to use at any point of time.

b) The petitioner shall surrender the original RC book and also the original insurance policy to the concerned RTO.

c) The petitioner shall attend the enquiry conducted by the RTO or any other authority and shall co-operate in providing the details as to the person from whom the car was purchased, the amount that was given etc. The petitioner is permitted to take back the car only on the strict compliance of this condition.

d) The petitioner shall submit a monthly report before the concerned RTO reiterating that the vehicle has not been put to use and that the undertaking given at the time of taking custody



of the car is strictly complied with.”

WEB COPY

7.If the petitioner gives the aforementioned undertakings to the 2nd respondent, the vehicle may be released. But however, it may be noted that the registration has been cancelled and the petitioner must abide by the said undertaking given by him. If he fails to give the monthly report, the respondents are permitted to seize the vehicle once again without any notice.

8.With the above observations, this Writ Petition stands disposed of.

No costs.

20.12.2024

Index:Yes/No
Internet:Yes/No
smv

Note: Issue order copy on 03.01.2025.

To

1.The Transport Commissioner,
Home (Transport) Department,
Government of Tamil Nadu,
Ezhilagam 2nd Floor,
Chepauk, Chennai.



WEB COPY



C.V.KARTHIKEYAN,J.

smv

- 2.The Regional Transport Officer,
Regional Transport Office,
Tiruppur South,
Tiruppur District.
- 3.The Motor Vehicle Inspector GR-I,
Regional Transport Office,
Tiruppur South,
Tiruppur District.

W.P.No.15988 of 2024

20.12.2024