



W.P.(MD)No.6202 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.628 of 2024 and
WMP(MD) Nos.642 & 643 of 2024

Rajesh

... Petitioner

Vs

1.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Thanjavur,
Thanjavur District.

2.The Inspector of Police,
Kumbakonam Police Station,
Kumbakonam,
Thanjavur District
(Crime No. 629/2023).

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, by calling for the records of the Impugned Confiscation Order of the 1st respondent in Na.Ka.No.Con-65/PEW/TAN/2023 dated 26.12.2023 quash the same as illegal and arbitrary and consequently direct the respondents to release the petitioner's vehicle by branding name PIAGGIO Auto



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bearing Registration No. TN 68-9712.

For Petitioner : Mr.S.Sathyachidambaram
For Respondents : Mr.M.Vaikkam Karunanidhi
Government Advocate (Crl. Side)

ORDER

The petitioner has filed this writ petition as against the order of confiscation passed by the Deputy Superintendent of Police, Prohibition Enforcement Wing, Thanjavur/the first respondent on the petitioner's vehicle bearing Registration No.TN 6897 12. The second respondent has registered a case as against the petitioner as if this petitioner was in possession of 432 liquor bottles of 180 ml each in his vehicle in Crime No.629 of 2023 for the offences punishable under Sections 4(1) (aa), 4(1-A) of the Tamil Nadu Prohibition Act, 1937 and his vehicle was also seized. A show cause notice was issued by the Inspector/the second respondent, as against the same, the petitioner has filed a writ petition before this Court in WP(MD) No.31102 of 2023 that the second respondent is not having any authority to issue the show cause notice and that writ petition is still pending. Pending that writ



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petition, the first respondent has passed the order of confiscation on 26.12.2023 and the same is under challenge in this writ petition.

2.Mr.M.Vaikkam Karunanidhi, learned Government Advocate appearing for the respondents submits that after providing an opportunity of hearing to the petitioner on 24.11.2023, the impugned confiscation order came to be passed and therefore, there is no need to interfere with the impugned order.

3.This Court considered the rival submissions made and also perused the materials placed on record.

4.The competence of the second respondent in issuing the show cause notice was challenged by this petitioner in WP(MD) No. 31102 of 2023 and pending that writ petition, the first respondent without providing an opportunity and without hearing the petitioner has passed the impugned order. Therefore, on the ground of violation of principles of natural justice, the impugned order is set aside. The



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issue is remanded back to the first respondent for conducting an enquiry afresh. After providing an opportunity of hearing to this petitioner, the first respondent shall pass an order afresh.

5. With the above direction, this writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

15.03.2024

NCC : Yes / No.

Index : Yes / No.

Internet: Yes / No.

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Note: Issue order copy on **19.03.2024**

To

1. The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Thanjavur,
Thanjavur District.

2. The Inspector of Police,
Kumbakonam Police Station,
Kumbakonam,
Thanjavur District



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B.PUGALENDHI, J.

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Order made in
W.P.(MD)No.628 of 2024 and
WMP(MD) Nos.642 & 643 of 2024

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