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W.P.(MD)NO.13441 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13441 of 2024 AND

W.M.P.(MD)No.11855 of 2024

K.Santhi

... Petitioner

Vs.

The District Revenue Officer and
Additional District Administrator Magistrate,
District Revenue Office
at Nagercoil,
Kanyakumari District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the respondent proceedings order in Na.Ka.No.Oo1/1189/2024 dated 11.03.2024 and quash the same as illegal and consequently direct the respondent to release the petitioner's vehicle Ashok Leyland Dost Goods Carrier bearing Registration No. TN 82 V 5821 within a stipulated period fixed by this Court.

For Petitioner : Mr.K.Gokul

For Respondent : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

* * *

**ORDER**

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Heard both sides.

2. The petitioner challenges the impugned order of confiscation passed by the respondent.

3. When the matter was taken up for hearing, the learned Additional Government Pleader submitted that when the statute provides the remedy of appeal under Section 6 of the Essential Commodities Act 1955, invoking writ jurisdiction is not proper. This contention would favour with me in normal circumstances. But then, I have to permit the petitioner to bypass the statute remedy because of the violation of principles of natural justice and non-adherence to the statutory procedure. Section 6-A of the Act provides for confiscation. Section 6-B(1) of the Act categorically stipulates that before passing confiscation order, a person concerned must be given notice in writing informing him of the grounds on which it is proposed to confiscate the vehicle. I wanted to know from the petitioner, if any such written notice was issued. It is fairly admitted by the learned Additional Government Pleader appearing for the respondent that written notice was not issued and only oral communication was given.



4. The statement signed by the petitioner on 16.02.2024 was also produced before me. But I am not impressed by this. When the statute specifically mandates that the written notice should be issued and also contains grounds, I cannot permit the respondent to bypass the statutory procedure. When the law stipulates that the requirements of something is to be done in a particular manner, that should be done in that manner. On the ground of violation of the procedure laid down in Section 6-B of the Act, the impugned order is set aside. The matter is remitted to the file of the respondent. The respondent will issue show cause notice in writing forthwith and thereafter, pass an order on merits and in accordance with law. This entire exercise shall be concluded within a period of ten days from the date of receipt of a copy of this order. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

26.06.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

PMU

Note : Issue order copy on 27.06.2024.



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G.R.SWAMINATHAN,J.

PMU

To:

The District Revenue Officer and
Additional District Administrator Magistrate,
District Revenue Office
at Nagercoil,
Kanyakumari District.

W.P.(MD)No.13441 of 2024

26.06.2024