



W.P.(MD)No.20978 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.20978 of 2024

and

W.M.P.(MD)Nos.17768, 17769 and 17771 of 2024

V.Kumaravel

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
(Prohibition Wing),
Virudhunagar.

2.The Inspector of Police,
Sattur Town Police Station,
Sattur,
Virudhunagar District.

3.The District Manager,
TASMAC,
Virudhunagar District.

4.Marimuthu

5.Namachivayam

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the order passed by the first respondent in ந.க.எண்.75 - 2 / கா.து.க/ம.வி.அ.பி/வி.மா/2023 dated 22.07.2024 under Section 14(4) of Tamil Nadu Prohibition Act and to quash the same.

For Petitioner : Mr.T.S.Mohamed Mohideen

For R-1 and R-2 : Mr.M.Vaikkam Karunanithi
Government Advocate
Criminal Side

For R-3 : Mr.H.Arumugam
Standing Counsel

ORDER

The present Writ Petition is filed challenging the order dated 22.07.2024, whereby the petitioner's Auto Rickshaw was confiscated under Section 14(4) of Tamil Nadu Prohibition Act, on the ground that the petitioner was allegedly found carrying 100 liquor bottles on the instructions of the fifth respondent.

2. The short ground on which the impugned order of confiscation challenged is that the petitioner had submitted his reply vide letter dated 08.07.2024 in response to the notice dated 27.06.2024 issued under Section



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14(4)(iii) of the Tamil Nadu Prohibition Act. However, the petitioner was not granted the opportunity of personal hearing.

3. The learned counsel for the petitioner placed reliance on the judgment of this Court in the case of ***Senthil Kumar Vs State, represented by Superintendent of Police and another*** reported in ***2020 SCC Online Mad 17831***, wherein it was held that failure to grant an opportunity of personal hearing vitiates the proceedings. The relevant portion of the order is extracted hereunder:

“8. In this case, the first respondent has no doubt put the petitioner on notice. The petitioner had also given the explanation in writing. But then, that alone would not suffice. The petitioner ought to have been heard. But in this case, such personal hearing was not granted. Therefore, on this sole ground, the order impugned in this writ petition is quashed. The matter is remitted to the file of the first respondent. The first respondent shall issue hearing notice and thereafter pass orders afresh and in accordance with law. The first respondent will not take note of the earlier confiscation order. He will independently decide the matter.



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4. The learned Government Advocate (Criminal Side) for the respondents 1 and 2 would submit that the petitioner would be afforded an opportunity of personal hearing and that the petitioner must co-operate without availing any further adjournments.

5. Considering the submissions made by either side, the impugned order is set aside, as failure to grant personal hearing vitiates the impugned proceedings. The petitioner shall appear before the first respondent on 17.09.2024 at about 11.00 A.M, failing which the confiscation proceeding will be restored.

6. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

03.09.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

Nsr

Note: Issue Order Copy on 03.09.2024.



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To:

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- 3.The District Manager,
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MOHAMMED SHAFFIQ, J.

Nsr

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