

(1999) 01 GAU CK 0011
In the Gauhati High Court
Case No : Civil Rule No. 1422 of 1992

Merinoply and Chemical Ltd.and Another	APPELLANT
Vs	
State of Assam and Another	RESPONDENT

Date of Decision : 29-01-1999

Acts Referred:

Assam Requisition and Control of Vehicles Act, 1968 — Section 3, 3

Citation : (1999) 1 GLJ 549

Hon'ble Judges : M.Sharma, J

Bench : Single Bench

Advocate : H.N.Sharma, A.K.Maheswari, Advocates appearing for Parties

Judgement

1. This writ petition has been preferred by the petitioners against the respondent No.2 the Officer Incharge of Naharkatia Police Station alleging his high handedness in requisitioning the petitioners' vehicle bearing No.NL04 0679 without complying with the provisions of law.

2. Petitioner No.1 is a company duly registered under the Companies Act, 1956 and petitioner No.2 is the Director of the petitioner No.1. The petitioner company owns a plywood factory and it has to do various activities in the course of the business. The petitioner company took on lease one car bearing No.NL04 0679 from one Mr. Debajit Bora of Raja Maidan Road, Jorhat on monthly basis for smooth functioning of the activities of the company as the company had no car of its own. It is contended on behalf of the petitioner that the company is in need of one car to facilitate the urgent works and to face emergent situation c those arose in the plywood factory. The car in question was given to the authority of the company by said Debajit Bora by letter dated 27.5.92. On 1.7.92 at about 2 PM while the Chief Executive and the Personal and Administrative Manager of the company were proceeding from Makum to Nagaland for official work the Officer Incharge of Naharkatia Police Station stopped the vehicle of the petitioner at Naharkatia and informed the occupants of the car that he is requisitioning the car for their use and asked the occupants to leave the car there and go on their own

way. Both the occupants explained the situation and informed about the difficulties if the car is requisitioned in that manner. However, no attention was paid to the requests of the occupants of the car. In that process the said police officer collected the registration certificate, other documents and driving licence from the driver of the car and took away the car. Aggrieved by this uncalled for and illegal conduct of the respondent No.2 the petitioners have approached this Court for a remedy against the respondent No.2. Further allegation of the petitioner is that petitioner company wrote letter dated 9.7.92 to the respondent No.2, with copies to the Superintendent of Police, Dibrugarh, the Director General of Police, Assam and the Secretary, Home Department, Govt of Assam, to release the said vehicle and as no action was taken petitioner has approached this Court for some direction.

3. In a catena of judicial pronouncements (Hemanta Kumar Sarma & others vs. State of Assam & others, 1990 (2) GLJ 350) this Court repeatedly held that vehicles can be requisitioned by the State only on complying with the provisions of law. From the facts and circumstances of the case as stated in the writ petition the action of the respondent No.2 is uncalled for and being a Govt officer he is not empowered to requisition any private vehicle. In the writ petition petitioner has not mentioned the name of respondent No.2 and in that view of the matter this Court is not in a position to give any warning to the concerned respondent No.2 for his illegal action. Admittedly, the incident took place on 1.7.92 and the particular officer might have been transferred to some other place and petitioner also must have got back the vehicle in question. However, in future cases the requisitioning officer, particularly the police officers are required to show their constraint in such matter and should not act illegally and without any sanction of the authority of law. It is also not proper on the part of the respondent Nos 1 and 2 and the other higher ups of the Govt that the complaint of the petitioner was not responded in due time.

4. In view of the above discussion this writ petition is allowed.