

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.5873 OF 2015

ORDER :

This writ petition is filed for a Mandamus to declare the action of 2nd respondent in confiscating the Tractor and Trailer bearing Registration No.AP04Y 6444 and AP04Y 6446 belonging to the petitioner in his proceedings Ref.No.E/1526/2014 dated 06.01.2015 as illegal and arbitrary and consequently direct the respondents to release the vehicle Tractor and Trailer belonging to the petitioner.

The case of the petitioner is that he is the owner of Tractor and Trailer bearing Nos.AP04Y 6444 and AP04Y 6446. The said vehicle was seized by the 3rd respondent on 25.10.2014 alleging that they are transporting sand without valid permission from the government and that the said vehicle was confiscated by the 2nd respondent vide proceedings Ref.No.E/1526/2014 dated 06.01.2015 without following the procedure prescribed in G.O.Ms.No.95. It is further stated that according to Section 18(v)© of the said G.O., before confiscation of vehicle a reasonable opportunity of being heard to be given to the owner of the vehicle. In the present case the 2nd respondent has not heard the petitioner before confiscating the vehicle and further the 2nd respondent has no jurisdiction to confiscate the petitioner's vehicle. According to Section 21(4A) of Mines and Minerals (Development and Regulation) Act, 1957 only competent court which can take the cognizance has the power to confiscate the vehicle. Hence, the 2nd respondent is not having power to confiscate the vehicle. Aggrieved by the same, the present writ

petition is filed.

Learned counsel for the petitioner submits that though the rules provide for grant of reasonable opportunity of being heard to the owner of the vehicle, which was seized, but without granting the same, the impugned order of confiscation is passed. Though another ground regarding jurisdiction of the Revenue Divisional Officer is raised, learned counsel has not pressed the same in the present case.

The matter was adjourned for getting instructions. Though after getting instructions also, learned counsel does not show that any opportunity of hearing was granted to the petitioner before passing the confiscation orders. Only on the short ground that opportunity of hearing was not granted to the petitioner, the impugned order is set aside. But, however the second respondent is directed to give an opportunity of hearing to the petitioner as provided under Rule 18(v)(c) of G.O.Ms.No.95 and after hearing the petitioner, pass appropriate orders afresh.

Accordingly, the writ petition is allowed to the extent indicated above. No order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

20.03.2015

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Date:20.03.2015

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