IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WEDNESDAY THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIFTEEN

HONOURABLE SRI JUSTICE A.V. SESHASAI

WRIT PETITION NO. 20690 OF 2015

Between:

Obulesh R … Petitioner

V/s.

The State of Andhra Pradesh
Rep.by its Prl. Secretary
Transport Department.
Secretariat Buildings,
Hyderabad & Ors. … Respondent

Counsel for the Petitioner : Sri M. Karibasaiah

Counsel for the Respondents : GP for Transport [AP]

The court made the following : [order follows]

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ORDER:

When the matter is called, it is submitted by the learned counsel for the petitioner so also the learned Government Pleader that in identical set of circumstances this court in WP.No.18921 of 2014 dated 09/7/2014 passed orders and a copy of the same is placed on record as a material paper. In view of the same, this court deems it appropriate to pass similar order.

2. Heard learned counsel for the petitioner as well as learned Assistant Government Pleader for Transport, who has accepted notice on behalf of the respondents and hence, issuance of further notice to them has been waived and with the consent of the learned counsel on either side, the writ petition itself has been taken up for final disposal.

3. The petitioner claims ownership over a motor vehicle, which is a tractor with attached trailer bearing registration No. AP-02-Q-2412 and AO-02-TA-8140 and the same has been intercepted by the Motor Vehicles Inspector, Guntakal on 29/10/2014 at 11:30 p.m. at Guntakal, Ananthapur district and found that it was plying without registration certificate, insurance certificate, fitness certificate and that the driver has not produced

any driving licence and there is no proof of payment of tax and there is no permit the vehicle did not carry the pollution under control certificate. Hence, the vehicle has been seized in accordance with section 8 of A.P.Motor Vehicles Taxation Act read with section 207 of the Motor Vehicles Act, 1988. The case of the petitioner is that at long last, he has submitted an application before the Regional Transport Authority seeking release of the vehicle but no orders are passed thereon.

4. The learned counsel for the petitioner has drawn my attention to the order passed by this Court in WP.No. 3367 of 2014 [**KERALA ENGLISH MEDIUM SCHOOL, VEENAVANKA, KARIMNAGAR DISTRICT V/s. THE GOVERNMENT OF ANDHRA PRADESH AND OTHERS**] dated 11/02/2014, wherein the issue has been resolved in the following manner:

> "Sub-section (1) of Section 66 makes it clear that no owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place, whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority authorizing the use of the vehicle in that place in the manner in which the vehicle is being used. It is therefore, more than clear that for any violations set out under Section 207, the authorized officer is entitled to seize and

> detain the vehicle, but however, when the proviso is also read with the main provision contained under sub-section (1) of Section 207, it occurs as if there is an element of discretion conferred upon the checking officials to seize the Registration Certificate instead of the vehicle itself. In the instant case, since the vehicle did not carry the Registration Certificate, no fault would lie on the part of the checking officials not to have exercised the discretion available to them under the proviso to sub-section (1) of Section 207. When there is no Registration Certificate accompanying the vehicle, the question of seizing it would not have simply arisen. Be that as it may, subject to payment of the undisputed tax amount and all other compounding charges for the remaining compoundable offences and also subject to payment of Rs.10,000/- towards part of penalty amount, the vehicle bearing Registration No. MH 15 AK 0301 shall be released immediately. The petitioner shall give an undertaking that he will not alienate the vehicle and create any 3rd party interests or charge thereon and that he will also maintain it in good running condition and that he will produce it as and when required for inspection by the authorities. Further, the respondents shall finalize the penalty proceedings and the amount of Rs.10,000/-, which the petitioner is now directed to pay, will be given credit to in that process."

5. Since, the lis involved in the present case stands on an identical basis, let there be a similar order even in this case.

6. However, the petitioner shall produce his identity proof, an undertaking that he will participate in the penalty proceedings

and deposit two sufficiently stamped registered postal envelops super scribed with his address, so that one of them can be used for communicating the date of hearing of the penalty proceedings and the second one can be used for communicating the order that might be passed in the penalty proceedings.

7. Subject to payment of tax admitted and payable and also Rs.5,000/- [Rs. Five thousand only] as part of penalty amount and also applying for compounding of other offences, the vehicle may be released.

8. With this, the writ petition stands disposed of. No costs.

9. As a sequel, Miscellaneous Petitions if any, pending in this writ petition shall stand closed.

JUSTICE A.V.SESHASAI

08/07/2015
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HONOURABLE SRI JUSTICE A.V. SESHASAI

WRIT PETITION NO. 20690 OF 2015

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