

THE HON'BLE SRI JUSTICE A.V. SESA SAI

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WRIT PETITION No.14817 OF 2012
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ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in seizing the vehicle bearing No.AP 35 V 7119 and consequent action of the 1st respondent collecting the compounding fee on the basis of the complaint of the 2nd respondent vide Reg.No.R08/1219187 as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently set aside the same and pass such other order or orders which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.”

2. Heard Sri Butta Vijaya Bhaskar, learned counsel, appearing for the petitioner and learned Government Pleaders for Civil Supplies and Transport (AP), appearing for the respondents.

3. The Station House Officer, Denkada Police Station, Vizianagaram District – 2nd respondent herein, stopped the vehicle of the petitioner and checked the same and observed that the said vehicle was carrying 20 passengers and on 27.04.2012, he addressed letter to the Regional Transport Officer, Vizianagaram, requesting to take action against the driver of the subject Bus bearing No.AP 35V 7119. Pursuant to the said letter, the Regional Transport Officer, Vizianagaram - 1st respondent herein, imposed Compounding Fee of Rs.5,025/- apart from payment of Tax for Q.E. Rs.35,650/- and subsequently, the vehicle was also released.

4. It is represented by the learned counsel for the petitioner that as per the permit issued by the Transport Authority, petitioner is entitled to carry 32 passengers. The action of the respondents in detaining the

vehicle and levying the Compound Fee on the ground that the subject vehicle was carrying 20 passengers, which is below the permissible limit as per the permit, is illegal, arbitrary and violative of Article 14 of the Constitution of India.

5. No counter affidavit is filed by the respondents.

6. A perusal of the permit issued by the Transport Authority under Rule 174 (iii) of the Andhra Pradesh Motor Vehicles Rules, 1989, clearly shows that the subject vehicle can carry 32 passengers. Therefore, the ground on which the petitioner's vehicle was stopped, detained and Compounding Fee was levied cannot be sustained in the eye of law.

7. For the aforesaid reasons, Writ Petition is allowed, directing the Regional Transport Officer, Vizianagaram - 1st respondent herein, to refund the Compounding Fee of Rs.5,025/- paid by the petitioner herein, within a period of three months from the date of receipt of a copy of this order.

8. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

09th December, 2015
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