

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

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**WRIT PETITION No.34434 of 2015**

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**DATED : 14.10.2015**

Between :

Sri Kondaiah Karredla S/o.Balaiah,

Aged 45 yrs, R/o.D.No.10/223, Teachers Colony,

Modameedapalli, Kadapa Town, YSR Kadapa District.

.. Petitioner

and

The State of Andhra Pradesh,

Rep., by its Principal Secretary,

Department of Industries & Commerce (Mines),

Secretariat, Hyderabad & 3 others.

.. Respondents

This court made the following :

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**ORDER :**

The grievance of the petitioner in the writ petition is that even though he has valid permit, his Tractor and Tractor bearing No.AP 03 TB 6471 and AP 03 7T 4175 was seized by the police, but so far the custody of the vehicle was not given to petitioner, causing grave hardship to him.

2. Learned counsel for the petitioner contends that transportation of sand, seizure of goods vehicle on the allegation of illegal transportation of sand is regulated by G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, and further clarified in G.O.Ms.No.6, Industries & Commerce (Mines IV) Department, dated 12.01.2015. Learned counsel for the petitioner submits that as per the above Government orders, even when a vehicle is seized by the police, it can be released on execution of bond in terms of para 18 of G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014. Learned counsel for the petitioner further submits that though a complaint is registered by the local police concerning the seizure of the vehicle, so far the vehicle is not produced before the Court.

3. Government issued notification vide G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, in exercise of power vested under Section 15 (1) of the Mines and Minerals (Development and Regulation) Act, 1957 (Act No.67 of 1957). The notification deals with various aspects of decasting and transportation of sand. Para 18 of the notification deals with offences for violation of conditions imposed by the notification. This para enables the competent authority to seize the vehicle, if sand is illegally transported. Para 18 also prescribes detailed procedure for confiscation of the vehicle seized and it also enables the competent authority to release the vehicle depending on the number of times violations are noticed and on levying the penalty. These orders only deal with the powers exercisable by Tahsildar/ Revenue Divisional Officer.

4. In continuation to the above orders, the Government issued further orders in G.O.Ms.No.6, Industries & Commerce (Mines IV) Department, dated 12.01.2015. In accordance with the orders in the above Government Order, whenever a vehicle is found by a Police Officer alleging illegal transportation of the sand, the Station

House Officer should immediately report the incident to the Revenue Divisional Officer concerned. Upon such report is furnished, the Revenue Divisional Officer is empowered to exercise power under Para 18 of the Notification issued through G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014. According to para 18 (vii) of G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, the officer who seized the vehicle is competent to release the same on execution of bond by the owner for production of the vehicle so released as and when directed by the competent Court.

5. Reading of provisions of the above two Government Orders would make it clear that even when a vehicle is seized by the Police Officer, the vehicle can be released in accordance with provision contained in para 18 of G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, provided the vehicle is not kept in the custody of the competent Court by the time the request for release of the vehicle is made.

6. In view of the orders of Government in G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, and G.O.Ms.No.6, Industries & Commerce (Mines IV) Department, dated 12.01.2015, the Writ Petition is disposed of, directing the petitioner to submit a representation to the Tahsildar, Proddatur Mandal, YSR Kadapa District (3<sup>rd</sup> respondent) for release of the vehicle. The 3<sup>rd</sup> respondent shall, within three (3) days from the date of receipt of the representation, examine whether the vehicle was used in the commission of the offence as prohibited by G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, read with G.O.Ms.No.6, Industries & Commerce (Mines IV) Department, dated 12.01.2015, and release the vehicle by duly observing relevant provisions of G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, and with such conditions as warranted, including execution of bond by the owner of the vehicle for its production as and when directed by the Competent Court; deposit of amount; and not to create third party interest.

7. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

**P.NAVEEN RAO,J**

14<sup>th</sup> October, 2015.

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