

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

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WRIT PETITION No.14610 OF 2015

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ORDER:

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The relief sought for in the Writ Petition is to declare the action of the respondents in seizing three Tata Hitachi Excavators EX 200 of the petitioner without following any procedure under statutes as illegal, arbitrary and violative of Articles 19 and 21 of the Constitution of India. A consequential direction is sought to the respondents to release the vehicles to the petitioner.

2. Sri K. Naveen Kumar, learned counsel for petitioner, would submit that the petitioner was only the owner of the vehicles; the respondents allegation that the vehicles were engaged in illicit quarrying of gravel, for which the petitioner cannot be faulted; and, in similar circumstances, this Court had passed an order in W.P. No.32849 of 2011 dated 20.12.2011 directing release of the vehicle subject to fulfillment of certain conditions.

3. Under Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957, (for short, the 'Act') whenever any person transports or causes to be transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any vehicle, such vehicle shall be liable to be seized by an officer or authority specially empowered in this behalf. Sub-section (4)(a) of Section 21 of the Act stipulates that any vehicle, seized under sub-section (4), shall be liable to be confiscated by an order of the Court competent to take cognizance of the offence under sub-section (1), and shall be disposed of in accordance with the directions of such Court.

4. Following the order passed by this Court in W.P.No.32849 of 2011 dated 20.12.2011, this Writ Petition is disposed of directing release of the

subject vehicles subject to the petitioner depositing the normal seigniorage fee payable with respect to the mineral seized. The concerned Assistant Director of Mines and Geology shall assess the amount of seigniorage fee recoverable. Thereafter, subject to further enquiry and investigation, the petitioner's vehicles shall be released on payment of the amount so determined by the Assistant Director of Mines and Geology. The petitioner shall also furnish an undertaking before all the respondents that he will produce the vehicles as and when required for the purpose of further enquiry or investigation or before the Court empowered to take cognizance of the offence under Section 21(4) (a) of the Act.

The petitioner shall not alienate the vehicles or create any third party interest pending completion of the enquiry or confiscation proceedings as the case may be. Release of the vehicles shall be subject to any order, which may be passed by the competent authority under the Act, or the competent Court, as the case may be. It is made clear that this order will not preclude the respondents from taking action in accordance with law, if need be, for confiscation of the subject vehicles.

As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

M.S.
RAMACHANDRA RAO, J

Date:21.05.2015

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