

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY**

WRIT PETITION No.41185 of 2015

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18.12.2015

Between:

Syed Anwar Ali

.. Petitioner

and

The State of Telangana,
represented by its Principal Secretary,
Industries and Commerce (Mines-I) Department,
Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.Ch.Ravinder

Counsel for respondent Nos.1 and 2: Assistant Government Pleader
for Mines and Geology (TS)

Counsel for respondent No.3: Assistant Government Pleader for Home (TS)

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the seizure of the petitioner's goods vehicle (tipper) bearing registration No.AP 28 TA 1695 as illegal and arbitrary.

The petitioner pleaded that he is the owner of the aforementioned tipper, that after getting the sand loaded on 07.12.2015 at Arepalli, the tipper was proceeding to its destination, that when it reached Pushpanagar turning, its rear right side tyre got punctured and that it took more than 1½ hours to get it repaired as the mechanic was not readily available at nearby place. That after getting the puncture repaired, when the vehicle was proceeding to its destination, the same was seized by respondent No.3 on the ground that it was carrying sand 1½ hours beyond the time schedule shown in the permit. After seizure, respondent No.3 has sent a report to respondent No.2 on 08.12.2015, wherein he has, *inter alia*, stated as under:

“I submit that on 07.12.2015 at 21.30 hours, while the Police party conducting vehicle checking at police station opp: one Lorry Bearing No.AP 28 TA 1695 transporting sand. Our police party asked the lorry driver to show transport way bill and checked the document. The way bill Time dated 07.12.2015 at 14.41 hrs. and its valid upto 5 hrs only. We verified that the time of sand transporting was expired by one and half hour late, it should not maintained proper timings of sand transportation issued by the legal authority. The Lorry was transporting sand from Arepally mid manair vemulawada Mandal to Kamareddy/Nizamabad District.

The Lorry was taken into custody & kept at Police Station Yellareddypet.”

The petitioner claimed that he has made a representation on 09.12.2015 to respondent No.2 and another representation on 11.12.2015 to the Superintendent of Police seeking release of the seized vehicle. As no order has been passed on these representations, the petitioner filed this writ petition.

I have heard Mr.Ch.Ravinder, learned counsel for the petitioner, and the learned Assistant Government Pleaders for Mines and Geology (TS) and Home (TS) appearing for respondent Nos.1 and 2 and respondent No.3 respectively.

From the facts that could be culled out from the report, dated 08.12.2015, of respondent No.3, a copy of which is filed by the petitioner and the authenticity of which is not disputed by the learned Assistant Government Pleaders, the only ground on which the petitioner's tipper was seized was that in the waybill, it was mentioned that the same was valid up to five hours only and that the vehicle was found transporting sand 1½ hours beyond the time stipulated in the waybill.

In my opinion, the above ground on which the tipper was seized is highly unreasonable and arbitrary. There is no whisper in the report of respondent No.3 that the petitioner was misusing the permit or illegally transporting the sand in the guise of the permit obtained by him. In the absence of such allegation, the mere fact that the petitioner could not adhere to the time stipulated in the permit and exceeded the same by 1½ hours, his vehicle is not liable to be seized and he is not liable to pay any penalties as prescribed under G.O.Ms.No.3, Industries & Commerce (Mines-I) Department, dated 08.01.2015, as amended by G.O.Ms.No.15, Industries & Commerce (Mines-I) Department, dated 19.02.2015.

In the above view of the matter, the Writ Petition is allowed as prayed for. The respondents are directed to forthwith release the petitioner's vehicle (tipper) bearing No.AP 28 TA 1695 unconditionally.

As a sequel to allowing the writ petition, W.P.M.P.No.53165 of 2015 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

18th December, 2015

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