

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

**FRIDAY, THE THIRTIETH DAY OF OCTOBER TWO THOUSAND
AND FIFTEEN**

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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Review W.P.M.P.No.43247 of 2015 & W.P.No.28943 of 2015

Between:

Jani Basha Shaik, S/o. Chinna Mabu,
Aged about 32 years, Occ: Business,
R/o.4-81, Near Sivalayam,
Piduguralla, Andhra Pradesh & another

.. Petitioners

AND

The State of Andhra Pradesh,
Rep. by its Prl. Secretary,
Home Department,
Secretariat Buildings,
Hyderabad & 2 others

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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COMMON ORDER:

Petitioners claim to be the owners of goods vehicles bearing Nos.AP 07 W 9388 and AP 16 TU 4306. According to the petitioners, though they have valid way bills having permission to carry 12 cubic meters of sand, illegally and without taking the measurements the vehicles were seized and so far, the custody of the vehicles is not handed over to the petitioners causing lot of hardship to the petitioners. In those circumstances, the petitioners filed W.P.No.28943 of 2015. This writ petition was considered along with several other writ petitions and was disposed of by order, dated 08.09.2015.

2. In para 2 of the order, the Court recorded the contentions of the learned counsel for the petitioners as if crime was already registered, but the same is not produced before the Court and that even if the vehicles are seized, the vehicles have to be released in accordance with the provisions contained in G.O.Ms.No.95, Industries & Commerce (M.IV) Department, dated 28.08.2014, read with G.O.Ms.No.6, Industries & Commerce (Mines IV) Department, dated 12.01.2015. Recording the said contentions, the writ petition was disposed of. The operative portion of the order is as under:

“6. In view of the orders of Government in G.O.Ms No.95 dated 28.8.2014 and G.O.Ms No. 6 dated 12.1.2015, the writ petition is disposed of, directing the petitioners to submit a representation to the jurisdictional Revenue

Divisional Officer/3rd respondent herein for release of the vehicle. The 3rd respondent shall within three 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 dated 28.8.2014 read with G.O.Ms No. 6 dated 12.1.2015 and release the vehicle by duly observing relevant provisions of G.O.Ms No.95 dated 28.8.2014 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. No costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.”

3. This review petition is filed contending that the petitioners are having valid way bills and unless the measurement is taken and it is established that the petitioners were carrying more than the permissible limit, they cannot be alleged to have been transporting the sand illegally and unless it is proved that the petitioners were carrying more than the permitted sand, the provisions of G.O.Ms.No.95, Industries & Commerce (M.IV) Department, dated 28.08.2014, read with G.O.Ms.No.6, Industries & Commerce (Mines IV) Department, dated 12.01.2015, are attracted and due to oversight the same could not be placed before this Court when the writ petition was heard along with other matters which were concerning the allegation of illegal transportation of sand without valid way bill.

4. Heard Sri Ch. Ravinder, learned counsel for the petitioners, learned Government Pleader for Home for respondents 1 and 2 and the learned Government Pleader for Revenue for the 3rd respondent.

5. Learned counsel further contended that in all matters where the transportation of sand is interrupted and the vehicles

are seized even though valid way bills are available with the transporting vehicles, the writ petitions are disposed of directing the authority to consider the issue whether the person is carrying excess sand than what is permitted and then only to take action.

6. The petitioners have filed the way bills, dated 10.08.2015, which show granting the permission to transport 12 cubic meters of sand. This fact is not disputed by the learned Government Pleader.

7. As seen from the material on record and the order passed by this Court, this fact was not noticed by the Court when the order is passed. Therefore, I am of the opinion that there is error apparent on the face of the record and the earlier decision requires re-consideration.

8. Accordingly, the Review W.P.M.P.No.43247 of 2015 is ordered and the order in W.P.No.28943 of 2015 passed on 08.09.2015 is reviewed and the following order is passed:

“The petitioners are directed to file an application before the 3rd respondent for release of the vehicles enclosing the documents in support of their claim that they are the owners of the vehicles bearing Nos.AP 07 W 9388 and AP 16 TU 4306 and that they are having valid way bills for transportation of the sand. As and when such application is filed, the 3rd respondent shall consider the same and if he is satisfied that the petitioners are not carrying more than 12 cubic meters of sand, the vehicles of the petitioners along with sand shall be released. If the 3rd respondent is not satisfied with the explanation given by the petitioners and if he is of the opinion that the petitioners were carrying more than 12

cubic meters of sand, he may pass appropriate orders as per G.O.Ms.No.95, Industries & Commerce (M.IV) Department, dated 28.08.2014, for release of the vehicles and subject to imposing of such conditions, as warranted by law. A decision to this effect shall be taken within a period of one (1) week from the date of receipt of copy of this order. The Writ Petition is, accordingly, 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

Date: 30th October, 2015

Note: Issue C.C. by 03.11.2015.

(b/o.)
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HON’BLE SRI JUSTICE P.NAVEEN RAO

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