

THE HON'BLE SRI JUSTICE A. RAJASEKHAR REDDY

WRIT PETITION No.2508 of 2015

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Between:

1. Nomula Madhusudhan and others.

PETITIONERS

AND

1. The State of Telangana rep. by its Principal Secretary,
Panchayat Raj Department, Secretariat Building, Hyderabad,
and others.

RESPONDENTS

ORDER:

Challenging the action of respondents 2 to 4 in seizing their goods vehicles bearing Nos.AP 29 TB 6656, AP 24 TB 3429, AP 24 TA 3536, AP 29 TB 1516, AP 16 TY 5152, AP 29 TB 2222, AP 29 TB 2949, TS 08 UB 1189, TS 05 UA 3799, AP 24 TA 2347, AP 24 TB 3247, AP 24 TB 8619 and AP 24 Y 5933, vide proceedings dated 01.02.2015 and detaining them in the open premises of the 4th respondent, the petitioners filed the present writ petition seeking a direction to respondents 2 and 4 to release their vehicles.

2. The petitioners state that their drivers without their knowledge loaded sand and while transporting the same, the officials of the 4th respondent seized the vehicles, vide proceedings dated 01.02.2015, on the ground that the vehicles were found to be illegally transporting sand, in contravention of Rule 13 of the Telangana State Sand Mining Rules, 2015 (for short, 'the Rules') and G.O.Ms.No.3 Industries and Commerce (Mines) Department No.1 dated 08.01.2015, and the vehicles were plying without valid way-bills issued by the Telangana State Mineral and Development Corporation or by the pattadar and kept the said vehicles in the premises of the 4th respondent without unloading the sand. Aggrieved by the same, the present writ petition is filed.

3. Heard learned counsel for the petitioners and learned Assistant Government Pleader for Home.

4. A perusal of Rule 13 of the Rules would show that the respondents are authorised to seize the vehicles and the sand when the same are transported in violation of sub-rule 1 of Rule 13 (3) of the Rules.

5. As per Rule 13(3) the authorised officer, who seizes the

vehicle as per Sub-Rule (1), shall keep the vehicle with Station House Officer concerned or Tahsildar concerned for safe custody and shall submit a report of such seizure to the Competent Court of law.

6. As per Rule 13(4) of the Rules the authorised officer shall order confiscation of the vehicle so seized.

7. As per Rule 13(5) of the Rules – no order of confiscation of any vehicle shall be made under sub rule (4) unless the person from whom the vehicle is seized, is given –

- a) a notice in writing informing the person of the grounds on which it is proposed to confiscate such property
- b) an opportunity of making a representation in writing with such time as may be specified in the notice against the grounds for confiscation and
- c) a reasonable opportunity of being heard in the matter.

8. It is not in dispute that the officials of the 4th respondent seized the vehicles under Rule 13(1) of the Rules. But as per sub-rule (1) of Rule 13(3), a report of such seizure should be submitted to the Competent Court of law. But, in this case, though the vehicles were seized by proceedings dated 01.02.2015, till date the vehicles are not produced before the Competent Court of law. In the absence of production of seized vehicles before the competent Court along with seizure report, the question of preferring an application under Section 451 of Cr.P.C., by the petitioners seeking release of their seized vehicles does not arise. Further a perusal of the Rules would show that, pending confiscation proceedings, the Rules do not provide for any procedure for release of seized vehicles.

9. The action of the respondent authorities in keeping the matter pending even after seizure of vehicles in question without following the procedure contemplated under sub-rule (1) of Rule 13(3) of the Rules, depriving the petitioners of their right to seek release of their vehicles from the competent Court, is unsustainable.

10. In view of the same, the writ petition is disposed of directing the respondents/concerned Officer to take immediate steps in

compliance of sub-rule (1) of Rule 13(3) by preparing seizure report and produce the vehicles before Competent Court to enable the petitioners to file an application under Section 451 Cr.P.C., for release of their vehicles, whereupon the competent Court shall pass orders in accordance with law; or in the alternative, the petitioners are permitted to file an application before the concerned Officer seeking for release of their vehicles. On such application being filed, the concerned officer shall consider the same and pass appropriate orders in accordance with law within a period of two weeks therefrom by seeking sufficient security and imposing condition of production of vehicles as and when required. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

A. RAJASEKHAR REDDY, J.

9th February, 2015
Js.