

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.31068 of 2015

Dated : 23.09.2015

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Between:

K. Govinda Rao S/o.Suryanarayana,
Aged about 38 yrs, Occu : Agriculture,
D.No.2-35C, Maddi Village,
Padmanabham Mandal,
Visakhapatnam District,

.. Petitioner

And

The State of Andhra Pradesh,
rep., by its Principal Secretary,
Panchayat Raj Department,
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 bearing No.AP 07 U 6460 and Tractor bearing No. AP 31 TB 4728 was seized by the police but so far the custody of the vehicle is not given to petitioner, causing grave hardship to him.

2. Learned counsel for petitioner contend that transportation of sand, seizure of vehicle on the allegation of illegal transportation of sand is regulated by G.O.Ms No.95 Industries & Commerce (M.IV) Department dated 28.8.2014 and as clarified in G.O.Ms No. 6 Industries & Commerce (Mines IV) Department dated 12.1.2015. He submits that as per above Government orders, even when vehicle is seized by

police, it can be released on execution of bond in terms of para 18 of G.O.Ms. No.95 dated 28.8.2014. He 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 dated 28.8.2014 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 dated 12.1.2015. In accordance with the orders in the above Government Order, whenever a vehicle is seized 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 dated 28.8.2014. According to para 18 (vii) 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 above two Government Orders would make it clear that even when a vehicle is seized by the Police Officer, vehicle can be released in accordance with provision contained in para 18 of G.O.Ms. No. 95 dated 28.8.2014 provided the vehicle is not kept in the custody of the competent Court by the time request for release of the vehicle is made.

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 petitioner to submit a representation to the jurisdictional Revenue Divisional Officer/2nd respondent herein for release of the vehicle. The 2nd 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.

_____**P.NAVEEN RAO,J**

23rd September, 2015

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