

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No. 35493 OF 2015

03.11.2015

Between:

Rama Chandra Swain,

Koraput, Odisha.

... Petitioner

And

The State of Andhra Pradesh,

Rep. by its Chief Secretary,

Transport, Roads and Buildings Department,

Transport Wing, J Block,

Secretariat, Hyderabad and others.

... Respondents

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PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the parties.

The petitioner, in the instant writ petition, seeks the following relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a Writ, Order or Direction particularly one in the nature of a Writ of Mandamus declaring the action of the 3rd respondent in not releasing the stage carriage bus OD10C6378 of the petitioner in spite of his willingness to pay the tax and penalty as per GO MS No 285 Tr R&B (Tr-III) Department which is applicable in this case as illegal, arbitrary, against the principles of Natural Justice, in violation of Fundamental Rules guaranteed under Constitution of India and against the settled law and consequently direct to release the stage carriage bus OD10C6378 and pass such other order or orders as this Hon'ble Court may deems fit and proper in the circumstances of the case.”

Sri B. Devanand, learned Government Pleader for the respondents submits that after the vehicle was attached, it was stolen by the driver of the vehicle and the driver has been apprehended and the vehicle is also attached by the concerned police station and on the complaint, a criminal case has been registered against the driver. In view thereof, he submits that the petitioner will have to approach the concerned Magistrate for release of the vehicle under the provisions of the Criminal Procedure Code.

Sri C.L.N. Gandhi, learned counsel for the petitioner submits that insofar as the respondents are concerned, the petitioner is ready to deposit the entire amount of tax with penalty and if such deposit is being made, they may be directed to release the vehicle. Thereafter, he submits that the petitioner shall approach the concerned Court for return of the property in connection with the crime registered against the driver for stealing the vehicle.

In the circumstances, we are satisfied that the following order shall meet the ends of justice:

If the petitioner deposits the tax and penalty as per G.O.Ms.No.285 Tr R&B (Tr-III) Department dated 15.09.1984, the concerned respondents shall pass order

releasing the vehicle within two days from the date of deposit of the tax and penalty. Thereafter, it is open to the petitioner to approach the concerned Magistrate for return of vehicle, which has been seized in connection with the crime registered for stealing of the vehicle, from the possession of the respondents. If any such application is made, we hope and trust that the concerned Magistrate shall deal with the same on merits in accordance within law, as expeditiously as possible and preferably, within a period of one week from the date of filing of that petition.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

03.11.2015

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