

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.9044 of 2015

ORDER:

This writ petition is filed for a *Mandamus* declaring the action of the respondents in seizing the tractor and trailer bearing No.AP 20 F 120 & AP 16 TY 9842 without following any procedure as contemplated under the law as illegal, arbitrary and for a consequential direction to the respondents to release the said vehicle to the petitioner.

2. The case of the petitioner is that he is owner of the tractor and trailer bearing No.AP-20-F-1220 & AP 16 TY 9842 and using the same for commercial purpose with relevant permissions from the concerned authorities. It is stated that on 17.03.2015, the 3rd respondent seized the tractor-trailer of the petitioner on the ground of transporting illegal sand through the said vehicle though having permits from concerned authorities.

3. Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj, for respondent No.1, Government Pleader for Revenue, for respondent No.2, learned Government Pleader for Home, for respondent No.3.

4. It is not disputed that the seizure is governed by G.O.No.186 dated 17.12.2013 which modified the earlier rules regulating quarrying and transportation of sand.

5. The amended rules, notified in G.O.Ms.No.186 dated 17.12.2013, prescribe a penalty for the first and second offences and, thereafter, for the confiscation of the vehicle after following the procedure stipulated therein. Even in cases where a vehicle is sought to be confiscated, the officer who seizes the vehicle is empowered to direct its release under Rule 9-Q (6) on execution of a bond by

the owner hereof for production of the vehicle so released as and when directed by the competent Court. Proceedings for confiscation can be instituted in cases where the offences which have been committed are for three or more times.

6. In view of the amended Rule 9-Q(1)(i) and (ii), read with Rule 9-Q(6), the petitioner is permitted to submit an application to the officer, who seized the vehicle; the said officer shall, within three days from the date of receipt of the application; examine whether the vehicle was used in committing the offence for the first and the second time; and, if so, consider directing release of the vehicle on payment of the prescribed penalty and execution of a bond being executed by the owner of the vehicle for its production as and when directed by the Court.

7. The entire exercise, culminating in an order being passed, shall be completed within three days from the date of submission of the representation by the petitioner; and necessary action shall be taken for release of the vehicle, in cases falling within the ambit of Rule 9-Q (1)(i), on payment of the prescribed penalty; and on execution of a bond being executed in terms of Rule 9-Q(6) of the Rules. Similar order has also been passed in W.P.No.15938 of 2014 on 11.06.2014.

8. Accordingly, the writ petition is disposed of. No costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A. RAJASHEKER REDDY, J

Date:02.04.2015

Rns

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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