

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

**WEDNESDAY, THE SEVENTH DAY OF OCTOBER TWO THOUSAND AND
FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

-

WRIT PETITION No.32692 of 2015

Between:

Venkata Lakshmi Sunkara,
W/o. Chanti, Aged about 38 years,
Occ: Housewife,
D.No.2-59, Seethanagaram Village,
Thagarampudi (Post), Anakapalli Mandal,
Visakhapatnam District.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Panchayat Raj Department,
Secretariat, Hyderabad & 3 others

.. Respondents

The Court made the following:

-

-

-

-

-

-

-

-

-

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.32692 of 2015

-

ORDER:

The grievance of the petitioner in the writ petition is that even though she has valid permit, her goods vehicle bearing No.AP 31TD 2133 was seized by the police, but so far the custody of the vehicle is not given to petitioner, causing grave hardship to her.

2. Learned counsel for the petitioner contends that transportation of sand, seizure of goods vehicles on the allegation of illegal transportation of sand is regulated by G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, and further clarified in G.O.Ms.No.6, Industries & Commerce (Mines IV) Department, dated 12.01.2015. Learned counsel for the petitioner submits that as per the above Government orders, even when a vehicle is seized by the police, it can be released on execution of bond in terms of para 18 of G.O.Ms.No.95, Industries & Commerce (Mines IV) Department,

dated 28.08.2014. Learned counsel for the petitioner 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, Industries & Commerce (Mines IV) Department, dated 28.08.2014, 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, Industries & Commerce (Mines IV) Department, dated 12.01.2015. In accordance with the orders in the above Government Order, whenever a vehicle is found 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, Industries & Commerce (Mines IV) Department, dated 28.08.2014. According to para 18 (vii) of G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, the 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 the above two Government Orders would make it clear that even when a vehicle is seized by the Police Officer, the

vehicle can be released in accordance with provision contained in para 18 of G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, provided the vehicle is not kept in the custody of the competent Court by the time the request for release of the vehicle is made.

6. In view of the orders of Government in G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, and G.O.Ms.No.6, Industries & Commerce (Mines IV) Department, dated 12.01.2015, the Writ Petition is disposed of, directing the petitioner to submit a representation to the Tahsildar, Anakapalli Mandal, Visakhapatnam District, (3rd respondent) for release of the vehicle. The 3rd respondent shall, within three (3) 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, Industries & Commerce (Mines IV) Department, dated 28.08.2014, read with G.O.Ms.No.6, Industries & Commerce (Mines IV) Department, dated 12.01.2015, and release the vehicle by duly observing relevant provisions of G.O.Ms.No.95, Industries & Commerce (Mines IV) Department, dated 28.08.2014, 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. 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: 7th October, 2015

KL

HON'BLE SRI JUSTICE P.NAVEEN RAO

-

WRIT PETITION No.32692 of 2015

-

Date: 7th October, 2015

KL