

HON'BLE SRI JUSTICE P NAVEEN RAO

WRIT PETITION No.31816 OF 2015

Date: 30.09.2015

Between :

Saripalli Eswara Rao S/o Chinnabbai,
Aged about 43 years, Occu: Business,
D.No.1-41, Penugollu Village,
S.Rayavaram Mandal, Visakhapatnam
District.

.... Petitioner

And

The State of Andhra Pradesh, rep.by its Principal Secretary,
Panchayat Raj Department, Secretariat, Hyderabad and 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 goods vehicle bearing No.AP 31 TU 1414 was seized by the police, but so far the custody of the vehicle is not given to the petitioner, causing grave hardship to him.

2. Learned counsel for petitioner contend that transportation of sand, seizure of goods vehicles on the allegation of illegal transportation of sand is regulated by G.O.Ms.No.15, Industries & Commerce (Mines—I) Department dated 19.02.2015 and further clarified in G.O.Ms.No.95 Industries & Commerce (M.IV) Department dated 28.8.2014 and G.O.Ms.No.6 Industries & Commerce (Mines-IV) Department dated 12.01.2015. 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 28.08.2014 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 notices 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 12.01.2015. 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, dated 28.08.2014. According to para-8(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 28.08.2014 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 28.08.2014 and G.O.Ms.No.6 dated 12.01.2015, 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 one week from the date of receipt of the representation, obtain the report from the Station House Officer, Bheemili Police Station, Visakhapatnam district (4th respondent) in terms of the G.O.Ms.No.6 dated 12.01.2015 and examine whether the vehicle was used in the commission of the offence as prohibited by G.O.Ms.No.95 dated 28.08.2014 read with G.O.Ms.No.6 dated 12.01.2015 and release the vehicle by duly observing relevant provisions of G.O.Ms.No.95 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.

JUSTICE P.NAVEEN RAO

Date: 30.09.2015

Note: Issue C.C. by two days.

B/o

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