

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

FRIDAY, THE NINETH DAY OF OCTOBER TWO THOUSAND AND FIFTEEN

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.33240 of 2015

Between:

Mekala Sreenivasulu,
S/o. M. Chinna Venkata Subbaiah,
Age 37 years, Occ: Agriculture,
R/o. H.No.2-4, Nanganuripally Village,
Proddatur Mandal, YSR Kadapa District,
Owner of JCB construction equipment bearing
Registration N. AP 04 AL 38 & 2 others

.. Petitioners

AND

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

.. Respondents

The Court made the following:

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ORDER:

The grievance of the petitioners in the writ petition is that even though they have valid permits, their vehicles bearing Nos.AP 04 AL 3844 (JCB construction equipment of the 1st petitioner), AP 04 TT 2924 & AP 04 AF 7645 (tractor and trailer of the 2nd petitioner) and AP 04 M 2754 & AP 04M 2755 (tractor and trailer of the 3rd petitioner) were seized by the police, but so far the custody of the vehicles is not given to petitioners, causing grave hardship to them.

2. Learned counsel for the petitioners 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 petitioners 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.

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 petitioners to submit representations to the Tahsildar, Proddatur Mandal, YSR Kadapa District (3rd respondent) for release of the vehicles. The 3rd respondent shall, within three (3) days from the date of receipt of the representations, examine whether the vehicles were 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 vehicles 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 bonds by the owners of the vehicles for its production as and when directed by the Competent Court; deposit of amount; and not to create third party interest. Learned counsel for the petitioners submits that the vehicles of the petitioners involved in commission of crime and no crime is registered against them. If that is so, the 3rd respondent Tahsildar is directed to consider whether the vehicles of the petitioners are involved and any crime is registered. If no crime is registered, the vehicles should be released without imposing any conditions. If the Tahsildar is of the opinion that the vehicles are involved in committing illegal transportation of sand and a crime is registered, then he shall follow the procedure as intended in G.O.Ms.No.95 read with G.O.Ms.No.6. 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: 9th October, 2015

Note: Issue C.C. by 14.10.2015

(B/o.)

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Date: 9th October, 2015

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