

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.19140 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking following relief:

“to issue Writ of Mandamus declaring the action of the respondent authority in issuing the seizure report dated 18-06-2015 issued by the respondents seizing the “Mobile Concrete Machine” of the petitioner with registration No.SK 04E 0101 purportedly under Section 207 of Motor Vehicles Act and Section 8 of the A.P. Motor Vehicles Act, as being illegal, arbitrary and unconstitutional apart from being in contravention to the provisions of the Motor Vehicles Act, 1988 and the Andhra Pradesh Motor Vehicles Taxation Act, 1963 and in violation of principles of natural justice and consequently set aside the seizure report dated 18-06-2015 seizing the “Mobile Concrete Machine” of the petitioner with registration No.SK 04E 0101.”

Heard Sri Avinash Desai, learned counsel for the petitioner and learned Government Pleader for Transport.

When the matter is called, a preliminary objection is raised with regard to the maintainability of the writ petition by the learned Government Pleader stating that as against the order impugned there is a statutory remedy of appeal under the provisions of A.P. Motor Vehicles Taxation Act, 1963 (for short, ‘the Act’). It is further submitted that the appellate authority in the instant case is the Deputy Transport Commissioner or the Regional Transport Authority, Nellore. It is also submitted that instead of filing the appeal before the said authority the petitioner herein filed appeal before the Regional Transport Officer, Gudur.

In view of the fact that alternative remedy of appeal is available to the petitioner herein, this Court is not inclined to entertain this writ petition.

For the aforesaid reasons, this writ petition is disposed of, keeping it open to the petitioner herein to file appeal under Section 12 of the Act against the seizure report, dated 18-06-2015, which is impugned in the present writ petition within the statutory period as prescribed under Section 12 of the Act. If any such appeal is filed by the petitioner herein within the time, the same shall be disposed of by the appellate authority – 4th respondent herein within a period of one week from the date of filing of the said appeal. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.V. SETHA SAI, J

June 29, 2015

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