

THE HON'BLE SRI JUSTICE A. RAJASEKHAR REDDY

WRIT PETITION No.2509 of 2015

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Between:

Palem Raju

PETITIONER

AND

1. The State of Telangana rep. by its Principal Secretary,
Panchayat Raj Department, Secretariat Building, Hyderabad,
and others.

RESPONDENTS

ORDER:

Challenging the action of respondents 2 to 4 in seizing his goods vehicles bearing Nos.AP 24 y 8829 & AP 24 TA 5238, vide proceedings dated 01.02.2015 on the ground that the vehicles are transporting the sand without any valid permit and detaining the vehicle in the open premises of the 4th respondent, the petitioner filed the present writ petition seeking a direction to respondents 2 and 4 to release his vehicle.

2. The petitioner states that his drivers without his knowledge loaded sand and while transporting the same, the officials of the 4th respondent seized the vehicles on 01.02.2015 on the ground that the vehicles found to be illegally transporting sand in contravention of Rule 13 of the Telangana State Sand Mining Rules, 2015 (for short, 'the Rules') and G.O.Ms.No.3 Industries and Commerce (Mines) Department No.1 dated 08.01.2015 and the vehicles were plying without any valid way-bill issued by the Telangana State Mineral and Development Corporation and kept the said vehicles in the premises of the 4th respondent. Aggrieved by the same, the present writ petition is filed.

3. Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home.

4. A perusal of Rule 13 of the Rules would show that the respondents are authorised to seize the vehicles and the sand when the same are transported in violation of sub-rule 1 of Rule 13 (3) of the Rules.

5. As per Rule 13(3) the authorised officer, who seizes the vehicle as per Sub-Rule (1), shall keep the vehicle with Station House Officer concerned or Tahsildar concerned for safe custody and shall

submit a report of such seizure to the Competent Court of law.

6. As per Rule 13(4) of the Rules the authorised officer shall order confiscation of the vehicle so seized.

7. As per Rule 13(5) of the Rules – no order of confiscation of any vehicle shall be made under sub rule (4) unless the person from whom the vehicle is seized, is given –

- a) a notice in writing informing the person of the grounds on which it is proposed to confiscate such property
- b) an opportunity of making a representation in writing with such time as may be specified in the notice against the grounds for confiscation and
- c) a reasonable opportunity of being heard in the matter.

8. It is not in dispute that the officials of the 4th respondent seized the vehicles under Rule 13(1) of the Rules. But as per sub-rule (1) of Rule 13(3), a report of such seizure should be submitted to the Competent Court of law. But, in this case, though the vehicles were seized by proceedings dated 01.02.2015, till date the same is not produced before the Competent Court of law. In the absence of production of seized vehicles before the competent Court along with seizure report, the question of preferring an application under Section 451 of Cr.P.C., by the petitioner does not arise. Further a perusal of the Rules would show that, pending confiscation proceedings the Rules do not provide for any procedure for release of seized vehicle.

9. The action of the respondent authorities in keeping the matter pending even after seizure of vehicles in question without following the procedure contemplated under sub-rule (1) of Rule 13(3) of the Rules, depriving the petitioner of his right to seek release of vehicles from the competent Court, is unsustainable.

10. In view of the same, the writ petition is disposed of directing the respondents/concerned Officer to take immediate steps in compliance of sub-rule (1) of Rule 13(3) by preparing seizure report and produce the vehicles before the Competent Court to enable the petitioner to file an application under Section 451 Cr.P.C., for release

of his vehicles, whereupon the competent Court shall pass orders in accordance with law; or in the alternative, the petitioner is permitted to file an application before the concerned Officer seeking for release of his vehicles. On such application being filed, the concerned officer shall consider the same and pass appropriate orders in accordance with law within a period of two weeks therefrom by seeking sufficient security and imposing condition of production of vehicles as and when required. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

A. RAJASEKHAR REDDY, J.

9th February, 2015
Js.