

HON'BLE SRI JUSTICE P NAVEEN RAO

WRIT PETITION No.31923 OF 2015

Date: 01.10.2015

Between :

Sri Venkata Rao Kancharapu s/o.late Sri Ramu,

Aged about 25 years, Occu: Business,

R/o.D.No.3-73, Vellanki Village, Kancharapu Kallalu,

Anandapuram Mandal, Visakhapatnam District,

Andhra Pradesh State and three others.

.... Petitioners

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:

Petitioners claim to be the owners of goods transport vehicles bearing Nos.AP 31 TE 6876, AP 31 TD 7979, AP 31 TD 2259 and AP 31 TE 4839. Petitioners contend that police illegally seized their goods vehicles on 23.09.2015 on the allegation of transporting sand without valid permit though petitioners have no knowledge of such transportation and their drivers were responsible. Their grievance is that so far the custody of the vehicles is not given to the petitioners, causing grave hardship to them.

2. Learned counsel for petitioners contend 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 (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 vehicles are 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 furnishing of such report, 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 petitioners to submit representations to the jurisdictional Tahsildar, Bhimunipatnam, Bhimili Mandal, Visakhapatnam District (2nd respondent) herein for release of the vehicles. The 2nd respondent shall within one week from the date of receipt of the representations, obtain the report from the Station House Officer, Bhimunipatnam Bhimili Police Station, Visakhapatnam district (3rd respondent) in terms of the G.O.Ms.No.6 dated 12.01.2015 and examine whether the vehicles were used in the commission of the offence as prohibited by G.O.Ms.No.95 dated 28.08.2014 and release the vehicles if the same is in accordance with relevant provisions of G.O.Ms.No.95 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. 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: 01.10.2015

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