

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.7727 OF 2015

ORDER:

This writ petition is filed seeking *Writ of Mandamus* declaring the orders dated 05.03.2015 passed by the 5th respondent in imposing penalty of Rs.1,00,000/- towards penalty to the petitioner's JCB bearing No.AP21J-4575 in contrary to G.O.Ms.No.6, dated 12.01.2015 of the 2nd respondent, as illegal and arbitrary and for a consequential direction to set aside the same.

The case of the petitioner is that he is the owner of JCB bearing No.AP21J-4575 and the same was seized by the 6th respondent on 21.12.2014 on the ground that the vehicle is used for illegal transportation of sand. Subsequently, the 5th respondent passed orders dated 05.03.2015 imposing penalty of Rs.1,00,000/- for release of the vehicle. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner submits that as per G.O.Ms.No.6, dated 12.01.2015, the Government has authorized the Revenue Divisional Officer (RDO) concerned to take action under his jurisdiction to collect penalty under Rule 18(1) (a) of G.O.Ms.No.95, I & C Department dated 28.08.2014, where the vehicles are found involved in illegal extraction and transportation of sand without way bill whereas in the present case, the 5th respondent has passed orders imposing penalty, which is without jurisdiction.

On the other hand, learned Government Pleader for Mines and Geology, and Revenue submits that basing on the report of the 6th respondent, penalty has been imposed by the 5th respondent on the petitioner's vehicle for illegal extraction and transportation of the sand.

G.O.Ms.No.6, dated 12.01.2015 reads as under:

“...the Government hereby authorize the Revenue Divisional Officer (RDO) concerned to take action under his jurisdiction to collect penalty under Rule 18 (1) (a) of G.O.Ms.No.95, I & C Dept., dated

28.08.2014 where the vehicles are found involved in illegal extraction and transportation of sand without way bill and also to confiscate the vehicles along with sand, if the vehicles are found to be involved in illegal extraction and transportation of same...”

In view of the fact that power of imposing penalty and confiscation is conferred on RDO, the impugned order dated 05.03.2015 passed by the 5th respondent is set aside. However, it is open for the competent authority to pass orders afresh after giving notice to the petitioner. Meanwhile, the petitioner shall not alienate or transfer the vehicle creating any encumbrance in respect of the same.

Accordingly, the writ petition is allowed. No costs. As a sequel, miscellaneous petitions, pending, if any shall stand closed.

A.RAJASHEKER REDDY, J

31.03.2015

dv

