

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

W.P.No.32572 of 2015

O R D E R:

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

“ For the reasons stated in the accompanying affidavit, it is prayed that the Hon'ble may be pleased to issue writ, order or direction more particularly one in the nature of Writ of Mandamus to declare the seizure and detention of the petitioner's vehicle (bus) bearing Regd.No.AP 28 TB 5999 by the 3rd respondent vide check report no.308884 dated 27.9.2015 as illegal, arbitrary, unconstitutional and consequently direct the 2nd respondent herein to forthwith release the vehicle in favour of the petitioner and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

Heard Sri B.Chandrasekhar, learned counsel for the petitioner and the learned Government Pleader for Transport appearing for the respondents 1 to 3.

The petitioner is the owner of the vehicle bearing No.AP-28 TB 5999. The Motor Vehicles Inspector, Chirala, Prakasam District the third respondent herein, seized the same on 27.9.2015 vide check report No.308884 on the following grounds:

“ Stopped and checked the above contract bus while proceeding to Hyderabad from Chirala with 6 paid individual passengers and found enquiry with driver and passenger reveals as this bus was playing in between Chirala, Hyderabad as express stage carriage in this bus booked online red bus tickets and movable tickets. Red bus and movable tickets purchased by paying Rs.770/- from Chirala to Hyderabad as the vehicle is plying as stage carriage and no proof of tax for quarter ending 30.9.3025”

The Motor Vehicles Act and the Rules made thereunder prescribes the procedure for determination of lapses, if any, committed by the owners of the vehicle and the consequences that flow from such determination.

That question as to whether the lapse pointed out in the vehicle check report is

true or not needs to be decided in the proceedings that may be initiated in accordance with the relevant provisions of law. Continued detention and seizure of the vehicle does not advance the purpose or interest of the respondents. On the other hand, it would expose to theft of parts and damage. The interest of the respondents can be protected by directing that the vehicle of the petitioner be released subject to certain conditions.

For the aforesaid reasons and having regard to the principles laid down in the above referred judgment, the writ petition is disposed of directing that the respondents shall release the vehicle bearing No. AP 28 TB 5999 to the petitioner, on his paying a sum of Rs.50,000/- (Rupees fifty Thousand only). The petitioner shall also file an undertaking to the effect that he shall produce the vehicle as and when necessary and that he shall not alienate the same in the meanwhile. This order, however, does not preclude the respondent authorities from initiating proceedings in accordance with law for recovery of tax, if any, due from the petitioner. The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Kk/Date:6.10.2015

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

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