

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.17203 of 2016

ORDER:

The grievance of the petitioner is as to the seizure and detention of his Tata Hitachi Ex-65 model Excavator.

2. The averments in the affidavit filed in support of the Writ Petition show that on 06.05.2016 while the vehicle was being used for extraction of the road metal, the Assistant Director of Mines and Geology, Banaganapalle, Kurnool District, along with Vigilance officials is said to have seized the Excavator.

3. Learned Government Pleader for Mines and Geology basing on the instructions received from the Mining Authorities concerned informed this Court that the subject vehicle was seized as mining was done outside the purview of the lease land. It is further stated that basing on the letter given by the Assistant Director, Mines and Geology the Station House Officer, Panyam Police Station, was said to have kept the vehicle in safe custody.

4. Learned counsel for the petitioner mainly submits that the petitioner is the owner of the vehicle and as such he has nothing to do with the illegal quarry by the lessee.

5. Having regard to the circumstances of the case, this Court is of the opinion that no purpose would be served in keeping the vehicle in the custody of the police at this stage and also of the opinion that having regard to the facts of the case no purpose would be served in keeping this matter pending for want of counter affidavits. It is also to be noted that the panchanama which has been prepared at the time

of seizure, does not *prima-facie* indicate presence of any illegally mined material in the vehicle.

6. Accordingly, the Writ Petition is allowed, permitting the petitioner to make an appropriate application to the Assistant Director, Mines and Geology, who shall release the vehicle i.e., Tata Hitachi Ex-65 model Excavator, on such terms and conditions as he deems fit and proper. It is needless to mention that release of the vehicle herein shall be subject to further orders that will be passed by the respondent in the enquiry to be conducted with respective allegations against quarry owner and the role if any played by the petitioner in the said alleged offence. It is needless to mention that the said process shall be completed as early as possible preferably within a period of 10 (ten) days from the date of receipt of the said application. No order as to costs.

7. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt: 10.06.2016.
GM