

THE HON' BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.31716 of 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a writ of Mandamus declaring the action of the second respondent in seizing the vehicle of the petitioner as illegal and arbitrary.

2. Heard Sri Ch.Venkata Narayana, learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies(Andhra Pradesh) representing the respondents 1 to 3.

3. The petitioner claims that he is the owner of Swaraj Mazda Van bearing No.AP 31 TC 0397. On 03.08.2016, the third respondent intercepted the vehicle of the petitioner alleging that the petitioner was transporting PDS rice without valid permit. The second respondent initiated proceedings against the petitioner under Section 6-A of the Essential Commodities Act. The contention of the learned counsel for the petitioner is that the petitioner was transporting the rice under valid way bills and authorization. Whether the rice in question belongs to PDS or not is purely a disputed question of fact, which can be decided by the competent authority under 6-A proceedings. A perusal of the record reveals that on 17.08.2016 the petitioner herein submitted a representation to the second respondent with a request to release the vehicle. For one reason or other, the second respondent has not disposed of the representation of the petitioner.

4. At the time of arguments, the only relief sought by the petitioner is to direct the second respondent to release the vehicle pending disposal of the 6-A proceedings. The learned Assistant Government Pleader opposed for the same. If the vehicle is kept under the custody of the second respondent, it may cause financial loss and untold hardship to the petitioner. If the vehicle is released unconditionally, it may not be possible for the respondents to take appropriate steps against the petitioner in the event the vehicle being liable for confiscation or fine.

5. Having regard to the facts and circumstances of the case, the second respondent is hereby directed to release the vehicle (Swaraj Mazda Van) bearing No.AP 31 TC 0397 in favour of the petitioner on his furnishing a bank guarantee for an amount of Rs.1,00,000/- (Rupees one lakh only). The petitioner is further directed to file an undertaking before the second respondent that he will not alienate the vehicle or create any third party interest over it and will not alter its nature, pending disposal of 6-A proceedings.

6. With the above direction, the writ petition is disposed of. No order as to costs. As a sequel, the miscellaneous petitions, pending if any in this writ petition, shall stand closed.

September 23, 2016.
Pns

T.SUNIL CHOWDARY, J