

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 14581 of 2016

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Mines and Geology.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action respondent No.3 is seizing the vehicle J.C.B. bearing No. AP 30 M 4348 bearing Engine No.4H2295/1123280 and Chassis No.172598662011, as illegal and arbitrary.

The case of the petitioner is that he is the owner of JCB vehicle bearing No. AP 30 M 4348 bearing Engine No.4H2295/1123280 and Chassis No.172598662011 which was purchased by availing loan from CITI Bank. He further submits that upon a request made by farmers namely Sadanala Satyanarayana, Smt. Thota Jaya Laxmi, Gadi Paparao and Pusala Veerraju, he gave his vehicle on rent for leveling their agriculture lands. The third respondent is said to have seized the said vehicle alleging that it was involved in illegal excavation and transportation of earth/gravel in Survey Nos.191/1, 2, 152/2 and 165 of Subhadrampeta Village, Rangampet Mandal. After issuing a notice dated 15.03.2016, the vehicle was seized and handed over to respondent No.5. It is his case that though he made representation on 16.04.2016, seeking release of the vehicle, the third respondent instead of considering his request, detained the vehicle.

Learned Government Pleader filed counter disputing the averments made in the affidavit. But, however, he did not dispute the ownership of the JCB vehicle. As per the counter affidavit, the illegal excavation and transportation of earth/gravel was done by the

lessees and the petitioner is only the owner of the vehicle. It is no doubt true that Rule 26 of A.P.Minor Mineral Concession Rules contemplates penalty for unauthorized quarrying and also seizure of the vehicle used for illegal excavation and transportation, but the issue is whether the vehicle requires detention at this stage.

A perusal of the material on record would show that allegation of unauthorized quarrying is against the land owners who carried out excavation and transportation of earth/gravel. In so far as the petitioner is concerned, his vehicle, which is given on lease, was used for quarrying operation. Further, it is to be noted that if the vehicle is not used for a reasonable time or if it is kept idle, there is every possibility of vehicle getting damaged.

Having regard to the said circumstances, the writ petition is disposed of with the following direction:

While any charge of unauthorized quarrying is free to be investigated by respondent No.3 and take appropriate action against the persons responsible, the petitioner, who is the owner of the vehicle and as the alleged quarrying operation took place while it was on lease, is permitted to make appropriate application seeking release of his vehicle by approaching respondent No.3. On receipt of such application from the petitioner or if an application is already made for release of vehicle, respondent No.3 shall release the JCB vehicle bearing No.AP 30 M 4348 bearing Engine No.4H2295/1123280 and Chassis No.172598662011, 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 owners 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 ten (10) days from the date of receipt of the said application.

Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE C.PRAVEEN KUMAR

22.06.2016,
vnb