

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY**

WRIT PETITION No.2999 of 2016

-
03.02.2016

Between:

Kunupudi Lakshmi

.. Petitioner

and

The State of Andhra Pradesh,
represented by its Principal Secretary,
Panchayat Raj and Rural Development Department,
Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.Y.Ramatirtha

Counsel for respondent No.1: Assistant Government Pleader
for Panchayat Raj and Rural Development (AP)

Counsel for respondent Nos.2 and 3: Assistant Government Pleader
for Revenue (AP)

The Court made the following:

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ORDER:

The petitioner claims to be the owner of lorry bearing registration No.AP 37 TA 5279. She pleaded that one Ravi engaged her lorry for transporting sand from Atreyapuram Phase II stock point to be delivered at 9 Vempa, Bhimavaram, West Godavari District. That the said Ravi paid the required amount of Rs.3,421/- and obtained receipt therefor and accordingly, secured an order for procuring sand. The petitioner further pleaded that due to the break down of one of the lorries, which came for loading of sand, a long queue was formed, as a result of which, sand could not be loaded in her lorry on 22.01.2016 and instead, it could be loaded only on 23.01.2016; that after obtaining waybill bearing No.WBO 449220116448 B5E, when the driver was returning from the stock point, respondent No.3 along with some other staff seized the petitioner's lorry on 23.01.2016 along with various other lorries and that thereafter, respondent No.2 has passed the impugned order, 27.01.2016, unilaterally concluding that the petitioner and others were transporting sand, without permission. That respondent No.2 has, accordingly, imposed a penalty of Rs.75,000/- in respect of the petitioner's lorry. The grievance of the petitioner is that though sand was being transported under valid permit/waybills, respondent No.2 has not given her, an opportunity of placing the relevant documents before him and that without any notice, he has passed the impugned order.

A perusal of the impugned order, which is styled as notice, does not show that a prior notice was issued to the petitioner. In my opinion, respondent No.2 is not justified in coming to an unilateral conclusion that the petitioner was transporting sand, without permit/waybills. Such a conclusion could be drawn, only after issuing a notice to the owners of the lorries and on their failure to produce the waybills and other relevant documents.

As it is the specific case of the petitioner that transportation of sand is covered by waybills and other relevant documents, the impugned notice, dated 27.01.2016, in respect of the petitioner's lorry is set aside. The petitioner is permitted to make a detailed representation along with the relevant material thereto to respondent No.2. Within three days of receipt of the petitioner's representation along with the documents, which may be produced by the petitioner, respondent No.2 shall consider the same and take an appropriate decision thereon. If the said respondent is satisfied with the documents produced by the petitioner, he may release the petitioner's vehicle, without imposing any penalty. Conversely, if respondent No.2 is not satisfied with the documents produced by the petitioner, he shall pass a reasoned order and communicate the same to the petitioner, within the above stipulated time.

Subject to the above directions, the Writ Petition is allowed.

As a sequel to allowing the writ petition, W.P.M.P.No.3806 of 2016 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

03rd February, 2016
GHN