

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION NO.29814 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue writ of Mandamus declaring the memo, dated 24-06-2016 as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for respondents 1 to 3.

3. The petitioner claims that he is the owner of the lorry bearing Registration No.AP02U4197. A perusal of the record reveals that the lorry of the petitioner was intercepted by the 3rd respondent on 11-09-2015 alleging that PDS rice was being transported in the vehicle in question. The 2nd respondent issued a memo, dated 24-06-2016 releasing the vehicle of the petitioner on condition that the petitioner has to furnish bank guarantee for Rs.6,90,400/-

4. Learned counsel for the petitioner submitted that the condition imposed by the 2nd respondent is not legally sustainable.

5. Whether the petitioner is transporting the rice knowing fully well that it is PDS rice or not will be considered in the proceedings initiated against him under Section 6(A) of the Essential Commodities Act, 1955. If this Court gives any finding on that aspect, the same may cause prejudice to one of the parties to the proceedings. If the lorry is kept under the custody of the respondents till disposal of 6(A) proceedings, the same may cause untold hardship and financial loss to the petitioner. On the other hand, if the lorry is released unconditionally, it may not be possible for the respondents to take appropriate action against the petitioner in the event of the vehicle being liable for confiscation or fine. Therefore, this

Court is of the considered view that directing the petitioner to furnish bank guarantee to a tune of Rs.6,90,400/- would cause much inconvenience to the petitioner.

6. Taking into consideration the facts and circumstances of the case, the 2nd respondent is hereby directed to release the lorry bearing Registration No.AP02U4197 in favour of the petitioner on his furnishing bank guarantee for a sum of Rs.3,45,000/-. The petitioner shall also furnish an undertaking that he shall not alienate or alter the nature of the vehicle or create any third party interest over it pending disposal of the proceedings by the competent authority.

7. With the above direction, the writ petition is disposed of. As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

DATED: 06-09-2016.
Hsd

T.SUNIL CHOWDARY, J

