

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.44001 of 2016

ORDER:

Heard Mr. P. Vengala Reddy for petitioners and the Assistant Government Pleader (Revenue) for respondents.

2. Petitioners challenge proceeding Ref.No.(C)/901/2016 dated 10.09.2016 of third respondent as arbitrary, illegal and violative of principles of natural justice.

3. The circumstances relevant for the disposal of the writ petition are as follows:

On 14.06.2016, at about 10 PM, the Tahsildar etc. on receipt of credible information went to Goriganur – Thugutlapalli village road and found two lorries bearing Nos.AP 21-V-7727 and AP 29-V-336 ready to fill sand from the sand heap available there. (emphasis added). Under panchanama, the vehicles have been seized, finally resulted in issuing proceeding dated 10.09.2016 imposing penalties on the petitioners for release of vehicles.

4. The Court directed the respondents to produce the record and accordingly, the record is produced for inspection of the court. Respondent No.4 filed counter affidavit on behalf of the respondents.

5. I have perused the record, particularly, the panchanama dated 14.06.2016, the statements of drivers of the vehicles and the recommendation basing on which the proceeding impugned in the writ petition has been passed.

6. The case of petitioners is that the subject lorries are not engaged for transport of sand at all. Assuming without admitting that empty vehicles were vehicles were available near the sand heap that by itself does not mean that they are engaged for illegally transporting sand. The proceeding has been issued without notice to petitioners or an opportunity to prove their bonafides.

7. After perusing the record, the Assistant Government Pleader, firstly, tried to justify the proceeding impugned in the writ petition and alternatively submitted that as no finding on the alleged allegation, which resulted in imposing penalty, is wanting in the proceeding impugned in the writ petition. He fairly submits that the proceeding can be set aside, matter remitted to respondent No.3 for consideration afresh.

8. The statement is placed on record. The writ petition is ordered as follows:

The proceeding impugned in the writ petition is set aside. The third respondent is directed to issue notice to proceed under G.O.Ms.No42 dated 29.03.2016 to petitioners within one week from today. The petitioners are given liberty to submit explanation together with proof in support of their assertion that the lorries seized were not engaged in the illegal transportation of sand. The third respondent is directed to enquire into the issue, pass orders as are deemed fit and proper in the circumstances of the case. The said exercise shall be completed within three (3) weeks from the date of receipt of explanation.

As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

December 28, 2016

Note: Furnish C.C. in one week.

(B/o) DSK

