

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.39668 of 2016

Date: 18.11.2016

Between:

Md.Chunnu Mia S/o Ekramoodin,
Aged about 29 years, Occu: owner of Auto,
R/o. H.No.2-79, Indiranagar, Kalwakurthy
Village and Mandal, Mahabubnagar district.

... Petitioner

and

The State of Telangana, rep.by its Principal
Secretary, Revenue (Excise Department),
Secretariat, Hyderabad and others.

... Respondents



The Court made the following:

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ORDER:

Petitioner claims to be the registered owner of Auto Trolley bearing registration No.AP-22-V-0663. His vehicle was seized along with the goods and crime was registered against the petitioner for the offence under Section 34(a) of A.P.Excise Act, 1968. The allegation leveled against the petitioner was, there was a toddy in wooden crates carried in his vehicle. On furnishing fixed deposit receipt for Rs.31,000/-, temporary custody of the vehicle was given to the petitioner. Confiscation proceedings were finalized against the petitioner. In view of the same, petitioner surrendered the vehicle. Since vehicle was surrendered, petitioner requested for release of the fixed deposit amount given by him at the time of granting temporary custody of the vehicle. The said request of the petitioner was rejected holding that the petitioner is liable for forfeiture of the said money also. Aggrieved thereby, this writ petition is filed.

2. Heard Sri J.Janaki Rami Reddy, learned counsel for petitioner and learned Government Pleader for respondents 1 to 4 and with their consent, the writ petition is disposed of finally at the admission stage.

3. It is not in dispute that while granting temporary custody of the vehicle, as a matter of security, an amount of Rs.31,000/- was collected from the petitioner in the form of FDR. Thus, the amount collected was only as security for granting temporary custody while confiscation proceedings were pending. Once confiscation

proceedings were finalized, the vehicle was to be surrendered by the owner and accordingly, it was surrendered. On surrendering the vehicle, fixed deposit receipt obtained from the petitioner to grant temporary custody is required to be returned. It is not the case of the respondent that in addition to the confiscation of the vehicle, penalty was levied and, therefore, the fixed deposit amount would be adjusted towards the levy of penalty. No provision made in the Act or Rules is brought to my notice, which enable the forfeiture of the deposit amount obtained at the time of granting temporary custody. Thus, forfeiture of the amount is without competence and jurisdiction of the respondent authority and same has to be refunded.

4. Accordingly, the writ petition is allowed with a direction to respondents to release the fixed deposit amount to the petitioner as expeditiously as possible, preferably within a period of three weeks from the date of receipt of this order.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

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