

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

Writ Petition No.3122 of 2016

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Dated 03rd February, 2016

Between:

P.Suresh Kumar

...Petitioner

And

The State of Andhra Pradesh, rep.by its Prl.Secretary, Home Department,
A.P.Secretariat, at Hyderabad and others

...Respondents

Counsel for the petitioner: Sri E.Maruthi Raja

Counsel for respondent Nos.1 to 3: AGP for Home

Counsel for respondent No.4: AGP for Revenue

The Court made the following:

ORDER:

This writ petition is filed for a mandamus to declare the action of respondent No.2 in seizing the petitioner's Heavy Goods Vehicle bearing registration No.AP02

W4068 and not releasing the same despite release order of respondent No.3 as illegal and arbitrary.

At the hearing, Sri E.Maruthi Raja, learned counsel for the petitioner, submitted that the above-mentioned vehicle was seized by respondent No.2 on the allegations that it was carrying sand in excess of the permissive weight, besides transporting sand without permit. He has further submitted that for overloading, respondent No.3 has collected the penalty and issued release order to respondent No.2 and that in spite of the same, the said respondent has not released the lorry.

The learned Government Pleader for Home (AP) submitted that a criminal case was registered for an offence under Section 379 IPC and also under the provisions of the A.P.Water, Land and Trees Act, 2002 and that the vehicle is in the custody of respondent No.4. He has further submitted that respondent No.4 is the competent authority and that since the petitioner has not approached the said respondent with an application for release, he is not entitled for release of the vehicle.

The learned counsel for the petitioner has not disputed the submissions of the learned Government Pleader for Home.

Inasmuch as respondent No.4 is the competent authority to consider release of the lorry which is seized on the allegation of illicit transportation of sand, the petitioner is permitted to make an application for such release in terms of G.O.Ms.No.95, dated 28.8.2014. Within three days of receipt of such application, respondent No.4 shall consider the same, pass appropriate order and communicate the same to the petitioner.

Subject to the above directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, WP.M.P.No.3949 of 2016 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

03rd February, 2016

VGB