

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.2610 of 2017

ORDER:

This writ petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking to declare the action of the respondents in not releasing the Term Deposit of Rs.1,65,000/- and Original R.C. (Registration Certificate) in view of the acquittal in C.C.No.1644 of 2014, dated 13.08.2015, as illegal, arbitrary, unconstitutional and consequently to direct the respondents to release the Term Deposit of Rs.1,65,000/- and Original R.C. in view of the acquittal in C.C.No.1644 of 2014, dated 13.08.2015, with all consequential benefits.

2. Heard both sides and perused the material available on record. With the consent of both the counsel, the writ petition is taken up for disposal at the stage of admission.

3. The case of the petitioner is that the petitioner is the owner of the car namely Volkswagen Polo Car bearing No.AP 29BK 5166 and that his vehicle was seized by the Inspector of Police, Hayathnagar Police Station, in Crime No.323 of 2014 under Section 34(A) of the A.P. Excise Act, 1968, & Section 171 (B) (E) I.P.C. alleging that the vehicle is carrying liquor bottles to distribute to the voters. The petitioner submitted a detailed representation to the 2nd respondent, dated 02.05.2014, to release the seized vehicle and that he is ready to fulfill the conditions to be imposed by the excise authorities for releasing the vehicle. By considering the representation of the petitioner, the 2nd respondent issued proceedings Cr.No.A3/518/2014, dated 07.05.2014,

directing the petitioner to furnish F.D.R. for an amount of Rs.1,65,000/- in favour of the Deputy Commissioner of Prohibition and Excise, Ranga Reddy District, with validity for 36 months, drawn on any of the nationalized banks of State of Telangana along with original R.C. book, and a bond with two sureties and with copies of their ration cards and voter I.D. cards. As per the said proceedings, the petitioner submitted all the relevant documents including the term deposit and accordingly, the 2nd respondent issued proceedings Cr.No.A3/518/2014, dated 07.05.2014, with a direction to the Station House Officer, Hayathnagar Police Station, to release the vehicle.

4. The main grievance of the petitioner is that in the criminal case filed against the petitioner, which was numbered as C.C.No.1644 of 2014, the petitioner was acquitted of the alleged offences vide order, dated 13.08.2015, passed by the Special Judicial Magistrate of First Class for Excise cases-cum-XII Metropolitan Magistrate, Cyberabad, at L.B. Nagar. In view of the acquittal in the above said criminal case, the petitioner approached the respondent authorities to release the term deposit for Rs.1,65,000/- and original R.C. book of the vehicle, but the respondent authorities are not releasing the term deposit and original R.C. book to the petitioner. Hence, the present writ petition.

5. The 2nd respondent filed counter affidavit stating that a show cause notice for confiscation of the seized property under Section 46(2) of the A.P. Excise Act, 1968, was issued to M/s. VL Farms vide Cr.No.A3/518/2014/DCRR, dated 30.07.2016, and the

same was sent to the Station House Officer, Hayathnagar Police Station, for service on the concerned. The 2nd respondent further stated that the show cause notice is issued to the petitioner long back i.e., on 30.07.2016 and further action is under process and that the petitioner, instead of filing any explanation before the 2nd respondent, has directly approached this Court without availing the remedy before the competent authority under the A.P. Excise Act, 1968, and prays to dismiss the writ petition.

6. Learned counsel for the petitioner submitted that the petitioner has not received any such notice as stated by the 2nd respondent. Learned counsel further submitted that in any event, the petitioner is ready to give his explanation to the respondent authorities.

7. Considering the rival submissions, the Writ Petition is disposed of directing the petitioner to submit his explanation to the show cause notice, dated 30.07.2016, issued by the 2nd respondent, on or before 15.07.2017 and on such explanation, the 2nd respondent is directed to pass appropriate orders, as expeditiously as possible, in accordance with law. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

RAJA ELANGO, J

Date: 22nd June, 2017

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