

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.10573 of 2017

ORDER

Heard Sri Simhachalam Barapa Reddy, learned Senior Counsel appearing for the petitioners, and learned Government Pleader for Forests appearing for respondents 1 to 5 and Sri Badana Bhaskar Rao, learned counsel appearing for the 6th respondent.

The petitioners claim to be the owners of the respective vehicles viz., TATA Tipper bearing registration No.AP 05 TD 5166, Tipper bearing registration No.AP37-X-257, Hitach-200 Procline and Motor Cycle bearing registration No.AP31BL-4552. They let out the said vehicles to the 6th respondent for executing the civil works. While so, on 30.11.2016, they came to know that their vehicles were seized by respondents 4 and 5 and the 6th respondent was directed to bring the owners of the said vehicles. The 6th respondent promised the petitioners that the forest authorities are going to compound the offence and that he would handover the vehicles as soon as they are released. He further stated that he would pay the hire charges till release of the said vehicles. However, the 2nd respondent issued notice on 30.11.2016

calling upon the petitioners to attend his office and directing them to show cause as to why their vehicles shall not be confiscated to the Government. The said notice was followed by another notice dated 26.01.2017 whereby the petitioners were directed to appear before the D.F.O. Office, Kakinada, on 2.2.2017 for enquiry. On 2.2.2017, as per the instructions of the 2nd respondent, the 6th respondent prepared statements and obtained signatures of the petitioners. The petitioners requested the 2nd respondent for release of their vehicles, but the 2nd respondent, without releasing their vehicles, passed order on 6.2.2017 stating that in view of the compounding statement given by the 6th respondent and Bathula Srinu, the forest produce involved in D.O.R.No.226/2016-17 of Yeleswaram Ranga viz., Gravel 5,013.66 Cumts material and other seizures in the case would be released on payment of the compounding fees of Rs.31,33,540/-. Challenging the said order, the present writ petition is filed.

It is submitted by the learned Senior Counsel that the aforesaid Srinu and the 6th respondent has no authority to give the compounding statement in respect of the petitioners' vehicles and the said order is not binding on the petitioners.

It is clear from the record that even after issuance of notice on two occasions, the petitioners have not taken any steps claiming their vehicles and seeking release of the same. Moreover, they left it to the 6th respondent, who gave a statement for compounding the offence and in those circumstances only, the order for compounding the forest produce and the seized vehicles was passed.

Learned Government Pleader submits that petitioners 1 to 3 themselves submitted a representation before the Authority on 02.02.2017 to exonerate with some penalty by treating it as a first offence. He further submits that the said statement was made in the confiscation proceedings and that the petitioners cannot plead ignorance of the same.

In view of the same, this Court feels it appropriate to give an opportunity to the petitioners to contest D.O.R.No.226/2016-17 to the extent of their vehicles. It is open to the petitioners to take appropriate steps in accordance with law by filing their statement before the authority within 15 days from the date of receipt of a copy of this order and on receipt of the same, it is for the Authority to pass appropriate orders in respect of the petitioners separately in D.O.R.No.226/2016-17. The order of

compounding already passed on 6.2.2017 would be subject to the orders passed by the Competent Authority.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

7th September, 2017
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