

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.13801 of 2009

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking to call for the records relating to Memo No.61655/ EX III(2)/ 2008-4, dated 19.05.2009, of the 1st respondent and set aside the same.

The case of the petitioner is that he is the owner of Jeep bearing No.AP 27C 4716 and that the said jeep was seized by the Station House Officer, Kaluvoy of Nellore District, on the allegation that 1584 nips of Duty paid liquor was illegally transported in the said vehicle, and Crime No.40 of 1999 was registered and the vehicle was handed over to the custody of the 3rd respondent – Deputy Commissioner of Prohibition & Excise, Nellore. On the request of the petitioner, the Jeep was released to his interim custody on furnishing FDR for a sum of Rs.50,000/- in favour of the authority concerned and also on an undertaking. Subsequently, the 3rd respondent passed confiscation orders, vide proceedings dated 25.02.2000. Against the said order, the petitioner preferred an appeal before the 2nd respondent – Commissioner of Prohibition & Excise, Hyderabad. The 2nd respondent dismissed the appeal confirming the order of the 3rd respondent, vide order, dated 04.01.2001. The petitioner challenged the said order in a revision before the 1st respondent – Government. The 1st respondent also confirmed the orders passed by the respondents 2 and 3. Hence, the present writ petition.

The 3rd respondent filed counter affidavit stating that the vehicle of the petitioner was seized while it transporting the liquor illegally, during the period of elections, which is an offence under the provisions of the A.P. Excise Act.

Heard and perused the material available on record.

The contention of the learned counsel for the petitioner is that Somasila Police have engaged the jeep of the petitioner for election purpose with own driver and returned the vehicle on 31.08.1999, but the driver of the jeep took some passengers on 01.09.1999 from Somasila to Balajiroapet for his self gain and that the petitioner has no knowledge about the illegal transportation of liquor, and that the persons, who arrayed as accused in the crime, were already acquitted by a competent Court and the said contraband was also released and further, the petitioner is not an accused in the said case and hence, he requested to set aside the confiscation order.

When this Court is not inclined to return the vehicle on the ground raised by the petitioner, learned counsel for the petitioner submitted that already the petitioner has furnished FDR for a sum of Rs.50,000/- in favour of the 3rd respondent, and that the vehicle is of the year 1997 and he has no objection if the FDR is encashed by the respondents instead of producing the vehicle, which is in possession of the petitioner.

Considering the said submission, this Court is inclined to pass the following order:

The Writ Petition is disposed of setting aside the order under challenge and the respondents are directed to encash the F.D.R. of Rs.50,000/- furnished by the petitioner in favour of the authority concerned, instead of producing the vehicle. No order as to costs. Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

August 04, 2017
KTL