

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.19640 OF 2017

ORDER:

1. This writ petition is filed seeking to declare the seizure of the petitioner's Heavy Goods Vehicle bearing Regd.No.AP 02 TC 0126 vide check report No.251616, dated 22.5.2017 as illegal and arbitrary, and consequently, to direct the respondents to release the above vehicle of the petitioner.

2. Heard the learned Counsel for the petitioner and the learned Government Pleader for Transport. With the consent of both the parties, the Writ Petition is taken up for disposal at the stage of admission.

3. The learned Government Pleader for Transport submitted that an application filed by the petitioner for compounding the offence is still pending and as such the question of release of the vehicle would not arise.

4. Learned Counsel for the petitioner submitted that compounding of offence should not come in the way of the authorities in releasing the vehicle and if ultimately the petitioner fails, further action as contemplated under law can be taken against the petitioner. Till such time, no purpose would be served in detaining the vehicle.

5. Learned Government Pleader for Transport would further draw the attention of this Court to Section 194 of the Motor Vehicles Act, 1988, which relates to vehicle being driven with weight exceeding the permissible limit. Under Sub-section (1) thereof, whoever drives a motor vehicle in contravention of the provisions of Sections 113, 114 and 115 shall be punishable with a minimum fine of two thousand rupees and an additional

amount of one thousand rupees per tonne of excess load, together with the liability to pay charges for off-loading of the excess loading permissible weight.

6. In view of the aforesaid statutory provisions, ends of justice would be met if the Secretary, Regional Transport Authority concerned is directed to consider release of the subject vehicle forthwith to the petitioner on his fulfillment of the following conditions:

- (i) The petitioner shall deposit Rs.2,000/- and an additional amount of Rs.1,000/- per tonne of excess load;
- (ii) The petitioner shall also pay the charges, intimated to him by the Secretary, Regional Transport Authority concerned, for off-loading of the excess permissible weight;
- (iii) The petitioner shall furnish an undertaking to produce the subject vehicle as and when required to be produced before the jurisdictional Magistrate; and
- (iv) The petitioner shall file proof of ownership and other valid documents including the proof of payment of the tax due before the Secretary, Regional Transport Authority concerned.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 16th June, 2017
Nn.

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