

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.21619 OF 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue a writ or order or direction more particularly one in the nature of a writ of Mandamus declaring the seizure of the Petitioner's vehicle bearing No.AR02 – 5457 seized under vehicle Check Report No.TS903/June,2017/17, dated 16.06.2017 by the 3rd respondent as illegal, arbitrary, contrary to law and without jurisdiction and consequently direct the 2nd respondent to release the vehicle of the petitioner forthwith.”

2. The petitioner is doing transport business and having several branches in India. The permits have authorization to ply the vehicles throughout India and the vehicles are covered by valid documents. The petitioner has been paying the taxes regularly as per the notification issued by the Government from time to time and also paid the tax of Rs.1,28,625/- to Telangana State on 30.03.2017 for the quarter ending 30.06.2017 at Alampur Check post. While so, on 16.06.2017, while the vehicle bearing No.AR02 – 5457 was going to Mangalore from Hyderabad with 17 passengers, it was stopped and checked by respondent No.3 at Check Post, Krishna and the same was seized under Vehicle Check Report No.TS906/June, 2017/79. The reason assigned for detaining the vehicle is violation of Rule 85(3) of the Central Motor Vehicles Rules, 1989 (for short, “the Rules”).

3. Learned counsel for the petitioner submitted that if the vehicle is kept idle for a long period, there is every possibility of it getting damaged; that any violation under Rule 85(3) of the Rules will not empower the authorities to detain the vehicle and that the petitioner is ready to pay the compounding fee and penalty imposed by the authorities.

4. Learned Government Pleader for Transport submitted that the aforesaid vehicle is liable to be seized and also detained by the authorities if there is any violation under Rule 85(3) of the Rules.

5. This Court, after careful examination of the Rules, is of the view that for any violation as mentioned under Rule 85(3) of the Rules, the vehicles cannot be detained. Hence, the authorities concerned are directed to release the vehicle bearing No.AR02 – 5457 to the petitioner on payment of compounding fee and other penalty imposed by the authorities. The petitioner is directed to produce the vehicle before the respondents as and when required.

6. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

7. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date : 03.07.2017

Note:- Furnish C.C. within (2) days.

B/O
AMD

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AMD