

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.37904 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief/ s:

‘..to issue an appropriate writ, order or direction more in the nature of Mandamus, declaring the action of the respondents in seizing the Lorry bearing No.AP28X 9218 without following any procedure under statutes contemplated under Section 9Q sub Section 7 of Minor Mineral Concession Rules belonging to the petitioner as being illegal, arbitrary and against the principles of natural justice and violative of Articles 14,16,19(1)(g), 21, 300-A and 301 of Constitution of India and consequently direct the respondents to release the Lorry bearing No.AP28X 9218 of the petitioner forthwith, and pass such other order or orders...’

I have heard the submissions of the learned counsel for the petitioner and of the learned Assistant Government Pleader representing the respondents.

Learned counsel for the petitioner first submitted that the vehicle was seized while transporting sand. He next submitted that in view of the terms of the G.O.Ms.No.15, dated 19.02.2015, the petitioner is entitled to seek release of the vehicle from the 2nd respondent and that the 2nd respondent is empowered to release the vehicle and that the issue is covered by the decisions of this Court.

However, learned Assistant Government Pleader would submit that after seizure of the subject vehicle, a case has been registered and that instructions on the aspect as to whether the vehicle is produced/ deposited before the Magistrate concerned are awaited. He would further submit in any view of the matter since the vehicle would be produced before the Court concerned, the petitioner has to approach the Court of the learned Magistrate concerned for release of the vehicle.

However, learned counsel for the petitioner submitted that even if the vehicle is produced before the competent Court, still, as per the terms of the afore-said GO, the 2nd respondent/ authority concerned is also empowered to consider the request of the petitioner for release of the seized vehicle in matters of this nature as per policy decision taken by the Government.

Having regard to the submissions and the terms of G.O.Ms.No.15, dated 19.02.2015, the Writ Petition is disposed of with the following directions: 'The petitioner is at liberty to approach either the learned Magistrate concerned on production/ deposit of the vehicle and file an application as per the procedure established by law and seek release of the vehicle by bringing to the notice of the Court the policy decision taken by the Government and the terms of the G.O.Ms.No.15, dated 19.02.2015, if the petitioner so desires; or, in the alternative the petitioner may make a request to the 2nd respondent by filing appropriate application for release of the vehicle; and, if any such application comes to be filed before the 2nd respondent, the 2nd respondent is at liberty to pass appropriate orders as per terms of G.O.Ms.No.15, dated 19.02.2015, after examining the competence and jurisdiction to release the vehicle, which was said to have been produced before the Court concerned.' It is needless to state that the application, if any, filed by the petitioner before either the Court or the 2nd respondent shall be disposed of on the same day in the interests of justice.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M. Seetharama Murthi, J

14.11.2017
Vjl