

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.38566 of 2017

ORDER:

This writ petition is filed seeking the following relief:

“.. to issue a writ, order or direction especially one in the nature of Writ of Mandamus declaring the seizure of Petitioner's goods carriage Ashok Leyland Ltd Vehicle bearing No. AP-27X- 1229 seized by the 3rd Respondent under vehicle check report No. 096154, dated. 10-11-2017 is illegal, arbitrary and violative of Art. 19 (1) (g) of the Constitution of India and further declare the action of the 2nd Respondent in not releasing the same by collecting overload penalty as per provisions of Motor Vehicles Act is also illegal and arbitrary and consequently direct the 2nd Respondent to release the Petitioner's goods carriage Ashok Leyland Ltd Vehicle bearing No. AP-27X- 1229 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and in the interest of justice.”

I have heard learned counsel for the petitioner and learned Government Pleader for Transport. I have perused the material record.

Learned counsel for the petitioner submits that the subject vehicle was seized on the ground of overloading. Having placed reliance on the earlier orders of this Court including the order, dated 23.10.2017, in W.P.M.P.No.43422 of 2017 in W.P.No.34940 of 2017, he seeks release of the vehicle on the same lines.

Learned Government Pleader for Transport endorses the said submissions stating that the vehicle can be released subject to payment of fine and additional amount.

In the order, on which reliance is placed, the relevant provisions are referred to and the vehicle was released subject to certain conditions.

Following the said order, the writ petition is allowed directing the respondent authority to grant interim custody of the vehicle bearing No.

AP-27-X-1229 to the petitioner subject to his depositing Rs.2,000/- and additional amount of Rs.3,000/- towards excess load and on payment of off-loading charges of the excess goods beyond the permissible weight as determined by the Secretary to Transport Authority. However, release of the vehicle as directed shall be subject to the petitioner undertaking that he shall not alienate or transfer the vehicle and shall produce the vehicle before the competent authority as and when directed or required and that he would maintain the vehicle in the same good road worthy condition without altering its major parts or features.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M. SEETHARAMA MURTI, J

Date: 16.11.2017
Note: Issue CC tomorrow
B/o
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