

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.38243 of 2017

ORDER:

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

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon’ble Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the seizure of the petitioner vehicle Lorry bearing No. AP-10-W-6985 is illegal, arbitrary and violative of Article 19 (1) (g) of the Constitution of India and consequently direct the 2nd respondent to release the petitioner vehicle Lorry bearing No. AP-10-W-6985, by collecting penalty as per rules and pass such other order or orders as this Hon’ble Court may deem fit and proper in the interest of justice.”

[Reproduced verbatim]

2. I have heard the submissions of Sri Arif Wali, learned counsel appearing for the petitioner, learned Government Pleader for Mines and Geology appearing for the 1st respondent, learned Government Pleader for Home appearing for the 2nd respondent and of the learned Government Pleader for Revenue appearing for the 3rd respondent. I have perused the material record.

3. Learned counsel for the petitioner first submitted that the vehicle was seized while transporting sand. He next submitted that the terms of the G.O.Ms.No.15, dated 19.02.2015, are applicable and 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 many decisions of this Court.

4. However, learned Government Pleader for Home appearing for the 2nd respondent would submit that after seizure of the vehicle, a case was registered. He, however, would submit that there are no instructions as to whether the seizure of the vehicle is reported to the Court of the concerned Magistrate and that instructions are awaited in that regard. However, learned counsel for the petitioner submits that as on today, the vehicle is not produced before the Court of the concerned Magistrate and that even if the vehicle is produced before the competent Court, still, as per the terms of the afore-stated G.O., the 2nd respondent is the concerned authority and is 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.

5. 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 the learned Magistrate in case the vehicle is produced before the learned Magistrate 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, in the event the said vehicle is 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.

JUSTICE M. SEETHARAMA MURTI

Date: 16th November, 2017

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