

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.35684 of 2017

ORDER:

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

“to declare the action of the respondents in seizing the 1st petitioner's Vehicle i.e., Lorry bearing No. AP 16 TD 1258 and the 2nd petitioner's vehicle i.e., Tractor bearing No. AP 20 AG 4736 without following any procedure under statutes contemplated under Sec. 9Q, Sub-Section 7 of the AP Minor Minerals concession Rules, 1966 as illegal, arbitrary, high handedness and against the principles of natural justice and violative of Article 14, 16, 19(1), 21 and 300-A and 301 of the Constitution of India and consequently direct the respondents to release the petitioners vehicles i.e., Lorry bearing No. AP 16 ID 1258 and Tractor bearing No. AP 20 AG 4736.”

2. I have heard the submissions of the learned counsel for the petitioners and of the learned Assistant Government Pleader for the respondents. I have perused the material record.

3. The learned counsel for the petitioners would submit that the facts of the present case are identical to the facts in W.P.No.27998 of 2015 and that, therefore, the issue involved in the present writ petition is covered by the order in the said writ petition and, hence, the writ petition may be disposed of by passing appropriate similar orders.

4. The learned Assistant Government Pleader would submit that the vehicles in question were seized while transporting sand illegally and that a case in Crime No.235 of 2017 for the offences punishable under Section 379 IPC and Section 21(1) of the Mines and Minerals (Development and Regulation) Act was registered by the Station House

Officer, Nelakondapally Police Station, on 17.10.2017 and the investigation is in progress.

5. In reply, learned counsel for the petitioners would submit that as per the instructions received by him, the vehicles are not yet deposited or produced before the Court of the learned Judicial Magistrate of First Class (Special Mobile), at Khammam.

6. Accepting the said statement and following the decision of this Court in the earlier writ petition, this Writ Petition is disposed of in terms of the said decision with the following directions:

“The petitioners are directed to submit an application for release of the vehicles before the competent authority and the competent authority, within three (03) days from the date of receipt of such application, examine whether the vehicles are used in committing the offence for the first and second time and if so, consider directing release of the vehicles on payment of the prescribed penalty. If, on the other hand, the vehicles are found to have been used in commission of the offence for three or more times, the officer concerned shall consider directing release of the vehicles after deposit of amount in accordance with Rule-12 of G.O.Ms.No.15 dated 19.02.2015 and also on execution of bond along with an affidavit giving consent to produce the seized vehicles as and when required.”

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

JUSTICE M. SEETHARAMA MURTI

Date: 31st October, 2017

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