

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.37674 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 2nd respondent in detaining tractor and trailer bearing Nos. TS 29 T 0398 and Trailer bearing No T S 29T 0397 and AP 20 AV 7120 and TS 03 UA 6410 of the petitioners without following any procedure under statutes as illegal, arbitrary and violative of Article 19, 21 of Constitution of India and consequential directions to the respondents to grant interim custody of vehicles (tractors and trailers) to the petitioners for with.”

[Reproduced verbatim]

2. I have heard the submissions of the learned counsel for the petitioners, learned Government Pleader for Industries and Mines appearing for the 1st respondent and of the learned Government Pleader for Home appearing for the 2nd respondent. I have perused the material record.

3. Learned counsel for the petitioners first submitted that the vehicles were 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 petitioners are entitled to seek release of the vehicles from the 2nd respondent and that the 2nd respondent is empowered to release the vehicles and that the issue is covered by many decisions of this Court.

4. However, learned Government Pleader for Home appearing for the 2nd respondent, on written instructions, would submit that after the seizure of the vehicles, a case in Crime No.422 of 2017 was registered, on 11.10.2017, by the Station House Officer, Khammam Rural Police

Station, for the offences punishable under Section 379 of IPC and Section 21(1) of MMDR Act and that a charge sheet is filed and C.C.No.1025 of 2017 is taken on file by the learned II Additional Judicial Magistrate of First Class, Khammam, before whom the seized vehicles are produced or deposited on 12.10.2017, and therefore, the petitioners have to approach the said Court with an appropriate application for release of the vehicles. However, learned counsel for the petitioners submits that as on today, the vehicles are not produced before the Court of the learned Magistrate and that even if the vehicles are 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 petitioners for release of the seized vehicles 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 petitioners are at liberty to approach either the learned Magistrate before whom the vehicles were said to have been produced and file applications as per the procedure established by law and seek release of the vehicles 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 petitioners so desire; or, in the alternative the petitioners may make a request to the 2nd respondent by filing appropriate applications for release of the vehicles; and, if any such applications come 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 vehicles, which were said to have been produced before the Court concerned.' It is needless to state that the

applications, if any, filed by the petitioners 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: 13th November, 2017

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