

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.37098 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner questioning the action of the 2nd respondent in not releasing the petitioner's vehicles i.e., (1) Tipper bearing Registration No.AP29-U-6362, (2) Motor Vehicle bearing Registration No.TS16-EG-7810 and (3) Dozer bearing Registration No.MH30-J-8866, as illegal, arbitrary and unconstitutional.

2. I have heard the submissions of the learned counsel for the petitioner, 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 petitioner 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 petitioner is 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 including the order, dated 30.10.2017, in W.P.No.34924 of 2017.

4. However, learned Government Pleader for Home appearing for the 2nd respondent, on written instructions, would submit that after seizure of the vehicles, under a Panchanama, a case in Crime No.160 of 2017 was registered, on 13.10.2017, by the Station House Officer, Renjal Police Station, Nizamabad District, for the offences punishable under Section 379 of IPC, Section 3 of PDPP Act and Section 21(1) of MMDR

Act, against the petitioner and the drivers of the vehicles and that the Investigating Officer is taking steps to deposit the vehicles without any delay before the Court of the learned Additional Judicial Magistrate of First Class, Bodhan, and therefore, the petitioner has to approach the said Court with an appropriate application for release of the vehicles. However, learned counsel for the petitioner 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 petitioner 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 petitioner is at liberty to approach the learned Magistrate concerned in case the vehicles are deposited/produced before the learned Magistrate 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 petitioner so desires; or, in the alternative the petitioner 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, in case the same have been produced/deposited before the Court concerned.' It is needless to state that the applications, 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: 13th November, 2017

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