

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**WRIT PETITION No.38101 of 2017**

**ORDER:**

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

**“to declare the action of 2<sup>nd</sup> respondent in detaining petitioner vehicle EICHER 333 Super Tractor & Tractor F/R which are registered vide Eicher Tractor bearing No. TS 23T 0610, and Trailer bearing No. TS 23T 0611 of the petitioner 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 (tractor and trailer) to the petitioner.”**

**[Reproduced verbatim]**

**2.** I have heard the submissions of the learned counsel for the petitioner, learned Government Pleader for Industries and Mines appearing for the 1<sup>st</sup> respondent and of the learned Government Pleader for Home appearing for the 2<sup>nd</sup> respondent. I have perused the material record.

**3.** Learned counsel for the petitioner first submitted that the vehicles were seized while transporting sand. She 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 2<sup>nd</sup> respondent and that the 2<sup>nd</sup> 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 2<sup>nd</sup> respondent would submit that after seizure of the vehicles, case in FIR No.345 of 2017 was registered by the Station House

Officer, Sircilla Police Station, Rajanna Sircilla District, for the offences punishable under Section 379 of IPC and Section 21(4) of MMDR Act on 26.09.2017. He, however, would submit that there are no instructions as to whether the seizure of the vehicles is reported to the Court of the concerned Magistrate and instructions are awaited in that regard. However, learned counsel for the petitioner submits that as on today, the vehicles are not produced before the Court of the concerned 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 2<sup>nd</sup> 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 in case the vehicles are produced before the learned Magistrate and file an application 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 2<sup>nd</sup> respondent by filing appropriate application for release of the vehicles; and, if any such application comes to be filed before the 2<sup>nd</sup> respondent, the 2<sup>nd</sup> 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 the event the said vehicles are 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 2<sup>nd</sup> 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.

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**JUSTICE M. SEETHARAMA MURTI**

Date: 13<sup>th</sup> November, 2017

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