

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.35302 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 2nd respondent in detaining tractor and trailer bearing Nos. TS 04 UB 7421 & AP 20 TA 9223 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 (tractors and trailers) to the petitioner for with.”

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

3. The learned counsel for the petitioner 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 submits that the tractor and trailer in question were seized while transporting sand illegally without any waybills and permission from the competent authorities and that a crime is registered *vide* Crime No.229 of 2017 under Section 379 IPC and Section 21 of the Mines and Minerals Development and Regulation Act, on the file of Kamepalli Police Station, Khammam District, on 17.10.2017 and the investigation is in progress. However, the learned counsel for the petitioner would reiterate that he has been

instructed to inform the Court that the vehicles are still in the custody of the police authorities.

5. 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 petitioner is 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

Note: Issue C.C. today.

(B/o.)
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