

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.36557 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner questioning the action of the second respondent in not releasing the petitioner's tractor and trailer bearing No.TS 04 UC 0467 & TS 04 UC 0468 in spite of the petitioner offering to pay the penalty as contemplated under G.O.Ms.No.15, dated 19.02.2015, as illegal, arbitrary and unconstitutional.

2. I have heard the submissions of the learned counsel for the petitioner and of the learned Assistant Government Pleader appearing for the second respondent.

3. Learned counsel for the petitioner would submit that the tractor and trailer were seized while transporting sand and that in view of the terms of aforesaid G.O., the petitioner is entitled to seek release of the said tractor and trailer from the second respondent and that the second respondent is empowered to release the tractor and trailer and that the issue is covered by many decisions of this Court.

4. The learned Assistant Government Pleader would submit that the seized tractor and trailer are deposited/produced before the Court of learned Judicial Magistrate of First Class concerned and that a crime has been registered and therefore, the writ petitioner is required to make an appropriate application before the Court of the learned Magistrate for release of the vehicle.

5. In reply, learned counsel for the petitioner would submit that even in a case where the vehicle is produced or deposited before

the learned Magistrate, the competent authority is yet having power to release the tractor and trailer.

6. 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 either the learned Magistrate before whom the tractor and trailer were said to have been produced and file an application as per the procedure established by law and seek release of the tractor and trailer by bringing to the notice of the Court, the policy decision taken by the Government and the terms of 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 application for release of the tractor and trailer; and, if any such application comes 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 tractor and trailer, which were said to have been 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 2nd respondent shall be disposed of on the same day in the interests of justice.

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

M. SEETHARAMA MURTI, J

Date: 06.11.2017
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