

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.38199 of 2017

ORDER:

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

“to issue a writ, order or a direction, more particularly one in the nature of Writ of Mandamus declaring that the action of 3rd respondent in seizure of vehicle bearing registration No.AP16X0545 registered with RTA Srikakulam and issuing impugned show cause notice No.111/Q/Sand/2016 dated .10.2017 demanding to pay a penalty of Rs.2.00 lakhs and threaten to registration of criminal case and confiscation of vehicle as illegal, arbitrary, untenable, unsustainable against law as well as principles of natural justice and consequently set aside the same and pass such other order or orders or directions as this Hon'ble High Court may deem fit and proper in the circumstances of the case.”

(Reproduced verbatim)

I have heard the submissions of the learned counsel appearing for the petitioner and of the learned Government Pleader representing the respondents 1 to 3. I have perused the material record.

At the hearing, learned counsel for the petitioner would submit that the issue involved in the present writ petition is squarely covered by the order, dated 06.11.2017, of this Court in W.P.No.36895 of 2017 and prays for passing an order on the same lines in the present writ petition.

Learned Government Pleader would submit that a show cause notice dated __.10.2017 bearing notice no.111/ Q/ Sand/ 2016 was issued to the petitioner demanding to pay a penalty of Rs.2.00 lakhs as per the relevant provisions of law and that the petitioner was also asked to explain the circumstances as to why a criminal case shall not be filed and the vehicle shall not be confiscated and that in that view of the matter he has to submit his explanation to the said show cause notice and hence he is not entitled to the release of the vehicle until a decision is taken by the competent authority pursuant to the afore-said show cause notice.

Having regard to the facts and submissions and following the order, dated 06.11.2017, of this Court in W.P.No.36895 of 2017, this Writ Petition is allowed and the competent authority is directed to release and give interim custody of the subject vehicle to the petitioner on the petitioner furnishing personal bond and third party surety/sureties to the satisfaction of the competent authority and on further undertaking that he will not alienate or transfer the subject vehicle in any manner and will maintain it in the same good and road worthy condition without changing any of its features and major parts and shall produce it along with its vehicular documents at a specified place or before a specified authority/ Court as and when directed. This order shall not preclude the petitioner from giving an explanation to the afore-said show cause notice said to have been issued to the petitioner. If no such explanation is yet given, the petitioner shall offer an explanation within two weeks from the date of receipt of a copy of this order to enable the competent authority to proceed further in the matter. It is also made clear that either on the petitioner submitting or not submitting his explanation; the authority concerned is at liberty to proceed further in the matter in strict accord with the procedure established by law.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

14.11.2017

Note:- Issue CC by 15.11.2017

(B/o)

Vjl