

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.35985 of 2017

ORDER:

This Writ petition, under Article 226 of the Constitution of India, is filed by the petitioner questioning the action of the respondents 2 and 3 in not releasing the petitioner's vehicle bearing no.TS 04 UB-7887 and TS 04 UB-7886 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.

I have heard the submissions of the learned counsel for the petitioner and of the learned Assistant Government Pleader for Home representing the respondents 1 and 2 and the learned Government Pleader for Revenue representing the 3rd respondent.

Learned counsel for the petitioner while stating that the tractor and trailer were seized while transporting the sand would further submit that in view of the terms of the afore-stated GO, the petitioner is entitled to seek release of the tractor and trailer from the 2nd respondent and that the 2nd respondent is empowered to release the tractor and trailer and that the issue is covered by the decisions of this Court.

Learned Assistant Government Pleader would submit that the seized tractor and trailer are produced before the Court of the learned Magistrate concerned and, therefore, the writ petitioner is required to make an appropriate application/s before the Court of the learned Magistrate for release of the tractor and trailer.

In reply, learned counsel for the petitioner would submit that that even if the tractor and trailer are deposited before the competent Court, still, as per the terms of the afore-said G.O, the authority concerned is empowered to

consider the request of the petitioner for release of the tractor and trailer as per policy decision taken by the Government in the matters of this nature.

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 deposited/ 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 an 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 the 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 deposited/ produced before the competent 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.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M.Seetharama Murti, J

30.10.2017

Note: Issue CC by 31.10.2017.

[B/o]

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Dated : 30-10-2017