

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.40354 of 2017

ORDER:

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

“For the reasons stated in the accompanying affidavit, to issue Writ, Order or direction, preferably a Writ in the nature of Mandamus by declaring the action of respondents in seizing the petitioner vehicle i.e,Tractor bearing No.AP-22-K-6987 & Trailer Beareing No. AP-02 U 1208 without following any procedure as envisaged under Govt. order VIDE Commerce (Mines-I) Department and G.O.Ms.No.15 dated 19-2-2015 as illegal, arbitrary, high handness and against the principles of natural justice and violative of Article 14,16,19(1) (g), 21, 300 A and 301 of the Constitution of India and to pass such other order or orders as this Hon’ble Court may deems fit just and proper in the circumstances of the case.”

2. I have heard the submissions of Sri *G.Rajeshwar Rao*, learned counsel appearing for the petitioner and the learned Assistant Government Pleader for the respondents. I have perused the material record.

3. Learned counsel for the petitioner states that the vehicle seized is still in the custody of the police authorities and that, therefore, the order of this Court, dated 01.09.2015, passed in W.P.No.27998 of 2015 would apply.

4. The learned Assistant Government Pleader submits that a crime has been registered and that he has yet to receive instructions as to whether the custody of the vehicle is still with the police authorities or that the same has been produced before a competent Court. However, the learned counsel for the petitioner would reiterate that he

has been instructed to inform the Court that the vehicle is still in the custody of the police authorities.

5. Accepting the said statement and following the decision of this Court in the afore-stated 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 vehicle before the competent authority and the competent authority, within three (03) days from the date of receipt of such application, examine whether the vehicle is used in committing the offence for the first and second time and if so, consider directing release of the vehicle on payment of the prescribed penalty. If, on the other hand, the vehicle is found to have been used in commission of the offence for three or more times, the officer concerned shall consider directing release of the vehicle 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 vehicle 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: 29th November, 2017

Note: Issue C.C. by tomorrow.

(B/o.)
KL

177

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**WRIT PETITION No.40354 of 2017**Date: 29th November, 2017

KL