

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.40623 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner, seeking verbatim the following the relief:

“...to issue an appropriate writ, order or direction more in the nature of Mandamus, declaring the action of the respondents in seizing the Lorries bearing No.AP24TB 2426 & AP07 TC 2345 without following any procedure under statutes contemplated under Section 9Q sub section 7 of Minor Mineral Concession Rules belonging to the petitioner as being illegal, arbitrary and against the principles of natural justice and violative of Articles 14, 16, 19(1)(g), 21, 300-A and 301 of the Constitution of India and consequently direct the respondents to release the Lorries bearing No.AP24TB 2426 & AP07 TC 2345 of the petitioner forthwith, and pass such other order or orders as are deemed fit and proper.”

2. I have heard the submissions of *Sri V.Brahmaiah Chowdary*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Home appearing for the respondents. I have perused the material record.

3. Learned counsel for the petitioner would submit as follows: ‘The subject Lorries were purchased by the present owner under an agreement of sale for a valid consideration. The same are being used for transportation purposes only. The said Lorries were seized, on 20.11.2017, while the said lorries were transporting sand. From then onwards, the vehicles were kept at a place which is open to sky. Hence, there is every possibility of damage to the vehicles. The petitioner made a written representation, dated 23.11.2017, to the 2nd respondent seeking release of the subject Lorries. The same was refused. Hence, he filed the present writ petition.’

4. Further, having placed reliance upon an order, dated 30.10.2017, of this Court in W.P.No.34465 of 2017 it is stated that in that writ petition with

identical facts, this Court gave appropriate directions with regard to the release of the vehicles. He, accordingly, requested for release of the subject vehicles as per terms of the Government Orders in G.O.Ms.No.15, dated 19.02.2015.

5. Learned Assistant Government Pleader would submit that after seizure of the vehicles, a crime has been registered, and that the seizure of the vehicles was reported to the Court concerned of the learned Magistrate and that the above said Lorries are already produced before the Court of the learned Magistrate concerned and, therefore, the writ petitioner is required to make appropriate application/s before the Court of the learned Magistrate for release of the said vehicles.

6. However, learned counsel for the petitioner submitted that even if the vehicles are produced before a competent Court, still, as per the terms of the afore-said GO, the 2nd respondent/ authority concerned is also empowered to consider the request/s of the petitioner for release of the seized vehicles in matters of this nature as per the policy decision taken by the Government.

7. 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 vehicles were said to have been produced and file application/s as per the procedure established by law and seek release of the vehicles by bringing to the notice of the Court the policy decision taken by the Government and the terms of the G.O.Ms.No.15, dated 19.02.2015, if the petitioner so desires; or, in the alternative he may make a request to the 2nd respondent by filing appropriate application/s for release of the vehicles; and, if any such application/s comes or come 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 vehicles, which were said to have been produced before the Court concerned.' It is needless to state that the application/ s, 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 Murthi, J

30.11.2017

Note:- Issue CC by 04.12.2017
(B/o)
RAR

