

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.42126 OF 2017

ORDER:

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

“...to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of 2nd respondent in seizing petitioner's new vehicle i.e. John Deere Tractor vide TR. No. TS 02X TR 7872 with a Tractor without following the procedure under statutes as illegal, arbitrary, high handedness and against principles of Natural Justice and violation of Articles 19 and 21 (10(g)) of Constitution of India, and consequently, direct the respondent No.2 to release petitioner's new vehicle i.e. John Deere Tractor vide TR. No. TS 02X TR 7872 with a Tractor by following procedure laid down under G.O.Ms.No.15 of Industries and Commerce (Mines-I) Department dated 19-02-2015 and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. I have heard the submissions of Sri V.V. Ramana Rao, learned counsel for the petitioner, the learned Government Pleader for Mines and Geology appearing for the 1st respondent and the learned Government Pleader for Home appearing for the 2nd respondent.

3. Learned counsel for the petitioner would submit as follows:

“The subject Tractor and Tractor was purchased by the petitioner in the last week of October, 2017 and he obtained temporary registration number. The said Tractor and Tractor was seized on 15.11.2017, while the same was transporting sand. From then onwards, the vehicle was kept at a place which is open to sky.

Hence, there is every possibility of damage to the vehicle. The petitioner filed a petition before the learned Judicial Magistrate of First Class, Sircilla, for return of the vehicle. The same was dismissed as not maintainable. 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 vehicle as per the terms of the Government Orders in G.O.Ms.No.15, dated 19.02.2015.

5. On instructions, learned Government Pleader for Home would submit that after seizure of the vehicle, a crime has been registered; that after due investigation, charge sheet is filed before the Court of learned Judicial Magistrate of First Class, Sircilla; and, that seizure of the vehicle is reported to the Court of the said learned Magistrate; and therefore, the petitioner has to approach the Court of the said learned Magistrate for release of the vehicle.

6. However, learned counsel for the petitioner submitted that even if the vehicle is produced before a competent Court, still, as per the terms of the afore-said G.O., the 2nd respondent authority is also empowered to consider the request of the petitioner for release of the seized vehicle 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 the learned Magistrate before whom the vehicle was said to have been produced and file an application as per the procedure established by law and seek release of the vehicle by bringing to the notice of the said 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, he may make a request to the 2nd respondent by filing appropriate application for release of the vehicle; 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 vehicle, which was said to have been produced before the Court concerned. It is needless to state that the application, if any, filed by the petitioner either before the Court or the 2nd respondent shall be disposed of on the same day in the interests of justice.”

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

There shall be no order as to costs.

M.SEETHARAMA MURTI, J

December 13, 2017

Note: Issue C.C. by tomorrow.
B/o.MD