

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.40941 of 2017

ORDER:

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

“..For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 1st respondent in rejecting the revision petition filed by the petitioner vide Memo no.24660/ Ex.II (2)/ 2016-2 dt.5-10-2017 harassing, without affording reasonable opportunity of being heard, as being illegal, and arbitrary and consequently set aside the same, and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.”

[Reproduced verbatim]

2. I have heard the submissions of *Sri Babuji Tenneti*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Prohibition & Excise appearing for the respondents 1 to 4. I have perused the material record.

3. The facts, in brief, are as follows: 'The petitioner is the registered owner of Bolero Maxi Truck bearing Registration no.AP-20-TA-1509. On 16.09.2015, the subject vehicle was transporting black jaggery. When it reached near NSP Canal, Mudigonda village and Mandal, the 4th respondent seized the said vehicle and registered a case in Crime no.462 of 2015-16 for the offence punishable under Section 7(A) read with 8(e) of A.P. Prohibition Act, 1995, and Section 34(e) of the A.P. Excise Act. Thereafter, the 3rd respondent passed confiscation order, dated 05.05.2016, in Crime no.838/ 2015/ P&E/ A1. Aggrieved by the said order, the petitioner preferred an appeal before the 2nd respondent. The said appeal was dismissed. Being aggrieved of the order

passed in the said appeal, the petitioner filed revision before the 1st respondent. The 1st respondent rejected the revision filed by the petitioner. Hence, the present writ petition is filed.'

3.1 In the above stated backdrop of facts, one of the main submissions of the learned counsel for the petitioner is that the criminal case ended in acquittal, vide judgment, dated 13.07.2017, in C.C.no.143 of 2016 on the file of the Court of the learned Special Judicial Magistrate of First Class (Prohibition & Excise), at Khammam, and that the impugned order, dated 05.10.2017, was passed without giving an opportunity of hearing to the petitioner and that, therefore, the order is liable to be set aside.

4. Learned Government Pleader appearing for the respondents 1 to 4 submit as follows: 'The authority concerned is entitled to pass independent orders without being influenced by the result of the criminal case; and, that therefore, the Government are entitled to confiscate the vehicle. Nevertheless, since the complaint is that the order impugned was passed without affording an opportunity of hearing, in the event, this Court comes to the conclusion that the order is liable to be set aside, the matter may be remitted to the authority concerned for disposal afresh in accordance with the procedure established by law.'

5. Recording the submissions, the Writ Petition is disposed of setting aside the order, dated 05.10.2017, and remitting the matter to the Government for disposal afresh in accordance with the procedure established by law after affording an opportunity of hearing to the petitioner. The authority concerned of the Government shall complete the necessary exercise, as directed supra, within three weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

05.12.2017
RAR

M.Seetharama Murti, J

