

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No.44556 OF 2017

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise appearing for respondent Nos.1 to 4.

This writ petition is filed for the following relief:

“...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.19864/Ex.II(2)2016-2, dated 5.10.2017, 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.”

It is the case of the petitioner that he is the registered owner of Ashok Leyland Lorry bearing Reg.No.MH-26-H-5416. He purchased the said vehicle by obtaining financial assistance from a private financier and he is eking out his livelihood by hiring the same. While so, on 29.01.2017, the said vehicle was engaged for transportation of white jaggery, on hire charges. The 4th respondent intercepted

the said vehicle, seized the same and registered a case in C.O.R.No.47 of 2016 under Section 4(iii) read with 3 of Gur Regulation Act and Section 34 (e) of A.P.Excise Act, 1995 (Telangana Adaptation Orders,2015). Thereafter, the 3rd respondent issued a show cause notice to the petitioner, for which, he submitted his explanation. Pursuant to the orders passed in Crl.R.C.No.379 of 2016, dated 4.2.2016, the vehicle of the petitioner was released. However, without considering his explanation, the 3rd respondent passed the confiscation order dated 19.3.2016. Aggrieved by the same, the petitioner preferred an appeal before the 2nd respondent, who in turn, while setting aside the confiscation order, imposed fine of Rs.5,50,000/- *vide* order dated 11.08.2016. Challenging the same, he filed a revision before the 1st respondent, who rejected *vide* order dated 5.10.2017. Based on the said rejection order passed by the 1st respondent, the 3rd respondent directed the 4th respondent to seize the vehicle of the petitioner. Hence, the writ petition.

The grievance of the petitioner is that no opportunity of being heard was given to him and apart from that the impugned order is a non-speaking order.

Learned counsel for the petitioner placed reliance on the order dated 05.12.2017 passed by this Court in W.P.No.40948 of 2017, whereunder in similar circumstances, this Court had set aside the impugned order therein and remanded the matter to the 1st respondent for fresh disposal.

Learned Government Pleader appearing for the respondents submits that the authority concerned is entitled to pass independent orders without being influenced by the result of the criminal case and that the Government is entitled to confiscate the vehicle.

Perused the impugned order dated 5.10.2017 herein and the impugned order in W.P.No. 40948 of 2017, which was allowed by this Court accepting the grounds raised by the writ petitioner therein. From the above impugned orders, it is clear that the routine orders came to be passed by the authorities in each and every case, that too, senior functionaries of the Government. The first respondent is aware that being a quasi judicial authority, the grounds raised in the appeal/revision filed before him, have to be analyzed in the light of the rules and regulations and thereafter, he has to pass an order. As the 1st respondent

has passed the order impugned in a routine manner without application of mind and also without assigning any reasons in consonance with the rules and regulations, and such act of the 1st respondent results in multiplicity of cases before the High Court. This would cause heavy burden on the authorities/Courts as a whole, resulting in wasting of precious time. Hence, the order impugned is liable to be set aside.

Accordingly, the order impugned is set aside and the revision filed by the petitioner before the 1st respondent is restored. The 1st respondent is directed to dispose of the revision afresh and pass appropriate orders, after affording an opportunity of hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of the order. Further the 1st respondent is directed to issue necessary instructions to the functionaries/officers exercising quasi judicial authorities to ensure adherence to the principles of natural justice and pass speaking orders so as to avoid multiplicity of proceedings before the Courts.

With the above directions, the Writ Petition is allowed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE CHALLA KODANDA RAM

28th December, 2017
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