

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.1723 of 2018

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India, seeking 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 2nd respondent in not releasing the stocks i.e., 87 boxes of white jaggery each containing 20 Kgs., and 232 boxes each containing 18 Kgs., total 5916 Kgs., seized in C.O.R.No.01/2018, inspite of the readiness of the petitioner to furnish the third party surety, as being illegal, arbitrary and unjust and consequently direct the 2nd respondent to issue orders for release the above said stocks, and to grant such other....”

2. I have heard the submissions of Sri B.Yadaiah, learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for the respondents. I have perused the material record.

3. Learned counsel for the petitioner would submit that in matters with identical facts, this Court is releasing the stock subject to conditions and prayed for releasing the stock on the same lines and the same terms. He placed on reliance of a decision of this Court, dated 18.09.2017, in W.P.No.31682 of 2017. He submits that the value of the subject Jaggery is Rs.59,160/- He further submits that the reasonable amount for which the Fixed Deposit Receipt may be directed to be furnished would be Rs.59,160/- in the facts and circumstances of the case.

4. However, learned Government Pleader for Prohibition and Excise, appearing for the respondents, having placed reliance on a decision, dated 28.06.2017, of this Court in a similar matter in W.P.No.21004 of 2017, submitted that in view of the huge quantity involved, the

petitioner may be directed to furnish a Fixed Deposit Receipt in favour of the 2nd respondent instead of directing him to furnish a personal bond or immovable property security. He further submits that the value of the Jaggery would be more than Rs.2,00,000/-.

5. Having regard to the facts and submissions, the Writ Petition is disposed of directing the petitioner to make an appropriate application before the Deputy Commissioner of Prohibition and Excise, Medak (2nd respondent) enclosing thereto a Fixed Deposit Receipt for Rs.1,00,000/- (Rupees one lakh only) drawn in favour of the 2nd respondent on any nationalised bank and on such application being made by the petitioner, the subject stock afore-stated shall be given to the interim custody of the petitioner.

6. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 02.02.2018
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Dr. B. SIVA SANKARA RAO, J

