

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.6015 of 2018

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Mines and Home and perused the prayer in the writ petition with supporting affidavit.

2. The prayer in the writ petition reads as follows:

“.....to issue an order, writ or direction more particularly in the nature of Writ of Mandamus declaring the action of 3rd respondent in seizing the Vehicles bearing No.AP 07 TH 2424, AP 07 TH 2388, AP 07 TH 5288 of the petitioner without following any procedure under statutes as illegal, arbitrary and violative of Article 19, 21 of Constitution of India and consequently direct the respondents to release the vehicle from their custody and pass such other order or orders that the Honourable Court may deem fit and proper in the interest of justice.”

3. It is the supporting affidavit averment that while transporting the load of Silica Sand to Chennai, in transit the lorries were seized by the 3rd respondent-Station House Officer, Tada Police Station, SPSR Nellore, and even driver of the lorry showed the transit waybills and permit to the destination, they did not consider in registering the Crime No.22 of 2018 and seized three vehicles in question. It is the submission that they are not illegally transporting, much less without permits and did not commit any contravention and the authorities did not even to consider Rule 26(3) clause (iii) of the A.P. Minor Mineral

Concession Rules, 1966, (for short, 'the Rules') amended in 2016 by G.O.Ms.No.37, dated 14.03.2016.

4. It is submission of the learned Government Pleader that the petitioner has to submit the proof regarding the permit and the bills required as contemplated by Rule 26(3) of the amended Rules and having failed to produce and having failed to approach, the petitioner cannot maintain the writ petition. With the writ petition there is no proof regarding the so-called showing atleast by enclosure of any such availability. If they could not produce any such proof undisputedly amended Rule 26(3) clause (iii) of the Rules that apply.

5. Having regard to the above, the petitioner has to approach the authorities and cannot maintain the writ petition.

6. Accordingly, the writ petition is disposed of relegating the petitioner to approach the authorities and submit the representation within one week, pursuant to this order, after receipt of a copy of the order and to dispose of the same on own merits by the authorities within three weeks, after hearing. If any grievance of the petitioner is left open.

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

Dr. B. SIVA SANKARA RAO, J

23rd February 2018

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