

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHARA PRADESH**

WRIT PETITION No.6559 of 2018

Between:

Mantena Ganga Srinivas

.....Petitioner

and

The State of Telangana rep. by its Principal Secretary, Transport
Department and 2 others

.....Respondents

Date of Judgment pronounced on : 28-02-2018

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

1. Whether Reporters of Local newspapers
May be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked
to Law Reporters/Journals: : Yes/No
3. Whether The Lordship wishes to see the fair copy
Of the Judgment? : Yes/No

*** HON'BLE DR. JUSTICE B. SIVA SANKARA RAO**

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> HEAD NOTE:

! Counsel for the petitioner : Sri Srikanth Kaveti

^ Counsel for the respondents : learned Government Pleader
for Transport

? Cases referred



HON'BLE DR. JUSTICE B. SIVA SANKARA RAO**WRIT PETITION No.6559 of 2018****ORDER:**

Heard learned counsel for the petitioner and learned Government Pleader for Transport for respondents and perused the prayer in the writ petition with the supporting affidavit and the written instructions.

It is the supporting affidavit averment that the petitioner who purchased the vehicle under hire purchase agreement in view of the seizure lost his livelihood and when the vehicle was seized on 29.01.2016 while plying by the driver, he came to know later about the seizure and the seizure is from non-production of the papers relating to the vehicle in the course of surprise check and the driver did not inform and left the job. Later he approached for the release of the vehicle and ready to pay whatever the amount due and payable for release of the vehicle saying the vehicle is kept idle from 29.01.2016 and it is in deteriorating condition and the continuation of the vehicle in custody further lost its utility.

The written instructions of the learned Government Pleader in support of the seizure disclose that in the course of check the vehicle was seized under Section 8 of TMVT Act 1963 and under Section 207 of MV Act for the reasons though the permit is valid up to 24.08.2019, the fitness of the vehicle expired on 29.10.2014 itself and owner paid tax only up to quarter ending 30.09.2014, later no tax paid including advance tax payable for the first quarter of 2016 by the time seizure taken place on 29.01.2016 for that. The calculation is furnished regarding total tax payable with penalty and compounding fee contemplated by Section 86 and

220(2) of the Act. From perusal of the calculation furnished in the written instructions particularly page No.2 the imposing of the penalty for non-payment of the tax of the first quarter of the year 2016 concerned, the quarter commences from 01.01.2016 ending by 31.03.2016 and the grace period for payment of the advance tax is till 31.01.2016 and the seizure was on 29.01.2016 to say before the expiry of the grace period of the payment of the advance tax of first quarter of 2016. Once the seizure taken place the imposing of penalty for that quarter is since unsustainable, which comes to Rs.4,500/- but for that deduction there is nothing more to interfere with the said levy payable if at all to direct for release of the vehicle subject to said payment for nothing to find fault with the seizure.

With the above observations, the Writ Petition is disposed of directing the respondents to release the vehicle of the petitioner subject to payment of Rs.59,000/-. In so far as the first quarter tax of 2016 for the period from 01.01.2016 to 31.03.2016 concerned, of Rs.3,040/- as vehicle was seized in the end of month of January 2016 the tax for the period not paid entitled to refund for two months of Rs.2,000/-. Instead of present payment and again claiming refund for the small amount with unnecessary ordeal, this Court chooses in giving deduction to it also in directing to pay the amount of Rs.57,000/-.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 28.02.2018

Note: L.R. copy to be marked

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