

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.6770 and 6776 of 2018

COMMON ORDER:

These writ petitions are filed under Article 226 of the Constitution of India, seeking the following relief in W.P.No.6770 of 2018:

“.....to issue an appropriate writ, order or direction more in the nature of Mandamus, declaring the action of the respondents in seizing the JCB bearing Nos.AP 15 AX 1215, TS 02 ER 9774, AP 15 AX 4646 and TS 02 ER 9522 without following any procedure under statutes contemplated under Section 9Q sub Section 7 of Minor Mineral Concession Rules belonging to the petitioner as being illegal, arbitrary and against the principles of natural justice and violative of Articles 14, 16, 19(1)(g), 21, 300-A and 301 of Constitution of India and consequently direct the respondents to release the JCBs bearing Nos.AP 15 AX 1215, TS 02 ER 9774, AP 15 AX 4646 and TS 02 ER 9522, of the petitioners forthwith, and pass such other order or orders as are deemed fit and proper.”

The prayer in W.P.No.6776 of 2018 reads as follows:

“.....to issue an appropriate writ, order or direction more in the nature of Mandamus, declaring the action of the respondents in seizing the JCB bearing No.TS 02 EW 9729 without following any procedure under statutes contemplated under Section 9Q sub Section 7 of Minor Mineral Concession Rules belonging to the petitioner as being illegal, arbitrary and against the principles of natural justice and violative of Articles 14, 16, 19(1)(g), 21, 300-A and 301 of Constitution of India and consequently direct the respondents to release the JCB bearing No.TS 02 EW 9729, of the petitioner forthwith, and pass such other order or orders as are deemed fit and proper.”

2. Heard both sides and perused the prayer in the writ petitions with supporting affidavits and G.O.Ms.No.15, dated 19.02.2015, of Industries and Commerce (Mines-I) Department.

3. A perusal of the said G.O. particularly from para 12 clauses (3) and (4) is crystal clear that if the vehicle/machinery is found involved in more than two times, such vehicle/machinery along with sand shall be seized and confiscated by the license authorised mentioned therein in clause (3) and the procedure contemplated is in clause (4).

4. Having regard to the above, both the Writ Petitions are disposed of directing the respondents to follow the procedure contemplated by G.O.Ms.No.15, dated 19.02.2015, if the petitioners choose to abide by.

Miscellaneous petitions pending, if any, in both the writ petitions shall stand closed. No costs.

5th March 2018

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Dr. B. SIVA SANKARA RAO, J