

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.6887 of 2018

ORDER:

Heard learned counsel for the petitioners and learned Government Pleader for Mines, Revenue and Home respectively for the respondents and perused the prayer with supporting affidavit and other material on record.

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

“.....to issue a Writ or order or direction one in the nature of **Writ of Mandamus** declaring the action of the respondents more specifically the action of respondent No.4 in seizing the petitioner's tractors bearing registration Nos.AP 04 AL 8640 & AP 04 TT 8508 without any authority and not releasing the same in spite of several requests and insisting the petitioners to pay huge amounts i.e., Rs.2 lakhs for release of the seized vehicles without proper enquiry as illegal, high handed, violation of principles of Natural Justice and violative of Articles 14, 21 and 300A of the Constitution of India apart from violation of guidelines issued under G.O.Ms.No.19 dated 15.01.2016 and its subsequent proceedings/clarifications etc., consequently direct the respondents to follow the procedure prescribed under relevant rules and the guidelines issued under G.O.Ms.No.19 dated 15.01.2016 and its subsequent proceedings/clarifications etc. while dealing with petitioners tractors bearing registration Nos.AP 04 AL 8640 & AP 04 TT 8508 and not to insist the petitioners to pay Rs.2 Lakhs each for release of their seized vehicles unilaterally, without enquiry further directing them not to act as per their whims and fancies and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

3. It is the supporting affidavit averment referring to G.O.Ms.No.19, dated 15.01.2016, that respondent No.4 having seized the vehicles as if involved in transporting the sand illegally even though the petitioners are not transporting the sand from any prohibited area violating any Rules to invoke G.O.Ms.No.42, dated 29.03.2016. It is also the submission that as per Rule 23 sub-section (1) clause (a) of the Andhra Pradesh Water, Land and Trees Rules, 2004 (for short, 'the Rules'), there is no prohibition for local use in the Villages or towns bordering the streams for taking sand and even for seizing the vehicle of the petitioners in question and thereby insisting to pay Rs.2 lakhs for release of the seized vehicles without proper enquiry is unsustainable and liable to be set aside by allowing the writ petition.

4. The learned Government Pleader from oral instructions opposed the petition saying the illegal transportation of the sand in question is prone to take recourse under G.O.Ms.No.42, dated 29.03.2016, and even as per Rule 23(1)(a) of the Rules 2004 supra, there must be prior permission from the very wording and it is not a case of there is any such permission and thereby the writ petition is liable to be dismissed.

5. There is nothing to show any such permission contemplated by Rule 23(1)(a) of the Rules by the petitioners in transporting any sand in the vehicles in question to claim any special exemption invoking that provision. In fact, the petitioners not filed any notice or

proceedings about insisting of payment of Rs.2 lakhs by respondent No.4 to release the vehicles.

6. Having regard to the above, the writ petition is disposed of directing the respondents to conduct an enquiry and pass appropriate orders, within two months from the date of receipt of a copy of this order, either for release of the vehicle by imposing of fine or penalty or for confiscation, as the case may be, on own merits. Further grievance of the petitioners if at all left open.

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

5th March 2018

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Dr. B. SIVA SANKARA RAO, J

