

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.7689 of 2018

ORDER:

Heard learned counsel for the petitioners and the learned Government Pleaders for Industries & Commerce and Revenue respectively for respondents and perused the prayer in the writ petition with the supporting affidavit and the impugned proceedings dated 12.01.2018 of the District Collector-2nd respondent and the written instructions received by the learned Government from the Tahsildar-4th respondent of even date and perused the same and G.O.Ms.No.42 dated 29.03.2016 governing the penalty to be imposed from the clandestinely dealing with sand without valid permit.

The very panchanama dated 06.12.2017 speaks the vehicles were seized by the Mandal Revenue Inspector, Vempalli, on 06.12.2017 at 04.00 AM and the panchanama proceedings were completed with seizure of two vehicles with sand load by 04.45 AM. Even in the written instructions reiterating the same and it is hardly believable of the writ petition affidavit averments of the said seizure of the vehicle is during the permit period between 08.00 AM to 05.00 PM. Had it been once there is valid permit undisputedly to extract the sand only given for one vehicle bearing No.AP-04-BD-9761 tractor with trailer No.9762 belongs to one Gajjala Padmavathi-1st petitioner. The other vehicle that was also seized with sand load along with above said vehicle supra, bearing No.AP-04-TW-3232 tractor with trailer No.3234 belongs to the 2nd petitioner-N.Rajasekhar Reddy was not with any permission.

The written instructions clearly speaks that under the guise of the permit for one tractor to extract sand between 08.00 AM to 05.00 PM for the specified purpose at the early hours of 04.00 AM with the 2 vehicles, the tractor was illegally excavating and transporting that were apprehended with the sand load. Once such is the case, it is G.O.Ms.No.42 dated 29.03.2016 that is applicable for imposing penalty including from the writ petition averments admitting about the carrying of the sand and what is contention of the taking away of sand during 08.00 AM to 05.00 PM cannot be believed for not the permitted one vehicle there are non-permitted vehicle with sand load at that time. That substantiates the written instructions version of Tahsildar and Mandal Revenue Inspector. Even therefrom what is discloses is, it is from the permitted area and not from the prohibited area; thereby the penalty to be imposed is Rs.1,00,000/- and not Rs.2,00,000/- for said G.O. Rule 9(b)(1) that is applicable and not clause (2).

Accordingly and in the result, this Writ Petition is to that extent allowed by reducing the penalty from Rs.2,00,000/- covered by impugned proceedings for each tractor to Rs.1,00,000/- each.

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

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 09.03.2018
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