

THE HON' BLE SRI JUSTICE A. V. SESA SAI

WRIT PETITION No.26987 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner questioning the seizure of Tipper bearing No.TS-02-UB-8914 as illegal, arbitrary and unconstitutional.

I have heard the submissions of the learned counsel for the petitioner and of the learned Assistant Government Pleader representing the 2nd respondent.

Learned counsel for the petitioner first submitted that the Tipper was seized while transporting sand. Further, having placed reliance upon an order, dated 29.12.2016, of this Court in W.P.No.44808 of 2016 and stating that in that writ petition with identical facts, this Court gave appropriate directions with regard to the release of the vehicles, sought similar directions in this petition for release of the subject vehicle as per terms of the Government Orders in G.O.Ms.No.15, dated 19.02.2015.

Learned Assistant Government Pleader would submit that the above said vehicle is already produced before the learned Magistrate concerned and, therefore, the writ petitioner is required to make appropriate applications before the Court of the learned Magistrate for release of the said vehicles.

However, learned counsel for the petitioner submitted that even if the vehicle is produced before a competent Court, still, as per the terms of the afore-said GO, the 4th respondent/ authority concerned is also empowered to consider the request of the petitioner for release of

the seized vehicle in matters of this nature as per policy decision taken by the Government.

Having regard to the submissions and the terms of G.O.Ms.No.15, dated 19.02.2015, the Writ Petition is disposed of with the following directions: 'The petitioner is at liberty to approach either the learned Magistrate before whom the Tipper was said to have been produced and file application as per the procedure established by law and seek release of the Tipper by bringing to the notice of the Court the policy decision taken by the Government and the terms of the G.O.Ms.No.15, dated 19.02.2015, if the petitioner so desires; or, in the alternative, he may make a request to the 4th respondent by filing appropriate application for release of the Tipper; and, if any such application comes to be filed before the 4th respondent, the 4th respondent is at liberty to pass appropriate orders as per terms of G.O.Ms.No.15, dated 19.02.2015, after examining the competence and jurisdiction to release the Tipper, which was said to have been produced before the Court concerned.' It is needless to state that the application, if any, filed by the petitioner before either the Court or the 4th respondent shall be disposed of on the same day in the interests of justice.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

A. V. Sessa Sai, J

01.08.2018
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