

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**WRIT PETITION No.41808 OF 2018**

**ORDER:**

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner requesting to issue a writ of *mandamus* declaring the Memo No.345/DTO/A2/2018, dated 06.11.2018, issued by respondent no.2 as illegal, arbitrary & violative of principles of natural justice and consequently set the same aside and direct respondent no.2 to release the vehicle of the petitioner bearing No.MH 04 FK 6633, which is a Tourist Bus.

2. I have heard the submissions of the learned counsel for the petitioner and of the learned Government Pleader for Transport (TG) appearing for the respondents. I have perused the material record.

3. Learned counsel for the petitioner submits as follows:

The petitioner is the owner of the above said vehicle. The vehicle is having a temporary permit, which is valid for a period of seven days i.e., from 03.11.2018 to 09.11.2018. As per the said temporary permit, the petitioner is entitled to ply the vehicle from Thane to Mumbai & other places and from Pune to Hyderabad and to Karnataka. The driver of the vehicle, who is not well versed with the procedures, could not pay the necessary tax at the check post while entering the State of Telangana. Therefore, the vehicle was seized by the Transport Department, on 03.11.2018. Hence, the petitioner gave a detailed representation, dated 05.11.2018, stating that the petitioner is having proper vehicular and other documents besides temporary permit for seven days and that the petitioner is

ready to pay necessary tax and other charges to the State of Telangana and that the petitioner is not liable to pay the tax and penalty demanded in the memo, dated 06.11.2018, of the District Transport Officer, Sangareddy. In the facts and circumstances of the case, the petitioner is liable to pay Rs.17,150/- towards seven days tax besides compounding fee of Rs.6,025/-. The petitioner is prepared to pay the same. The proceedings *vide* memo, dated 06.11.2018, of the District Transport Officer, Sangareddy, which are impugned, are directly issued without affording an opportunity to the petitioner to submit his explanation as to why he is not liable to pay any amount other than the amounts which the petitioner has undertaken to pay. Hence, the writ petition is filed.'

4. Learned Government Pleader for Transport submits that in view of the violation of the law, the petitioner is liable to pay the tax and penalty, as demanded in the memo, which is impugned.

5. I have given earnest consideration to the facts and submissions.

6. Having regard to the facts and submissions, the Writ Petition is disposed of with the following directions:

The respondents shall release the vehicle of the petitioner on the petitioner furnishing a personal bond for a sum of Rs.1,50,000/- (Rupees one lakh fifty thousands only) and on giving an undertaking that he will maintain the vehicle in the same condition without changing its parts and features and that he will not alienate or transfer the vehicle and will produce it as and when directed before the authority concerned; and, on the petitioner further surrendering the original RC of the vehicle to the District

Transport Officer, Sangareddy, Medak District, and on payment of Rs.17,150/- towards 7 days tax and Rs.6,025/- towards compounding fee. However, the memo, dated 06.11.2018, which is impugned, shall be treated as a show cause notice by the parties; and, the petitioner shall submit his explanation to the said memo, which is now being directed to be treated as a show cause notice, within a week from the date of receipt of a copy of this order. On petitioner submitting his representation accordingly, the 2<sup>nd</sup> respondent shall consider and dispose of the representation of the petitioner, in strict accordance with the procedure established by law, within two (2) weeks thereafter and pass appropriate orders and communicate the decision taken thereon to the petitioner within a week thereafter. It is made clear that while disposing of the representation of the petitioner, the 2<sup>nd</sup> respondent shall afford an opportunity of personal hearing to the petitioner.

There shall be no order as to costs.

Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

**JUSTICE M.SEETHARAMA MURTI**

Date: 20.11.2018

**Note:-** Furnish C.C. on 22.11.2018.

B/O  
AMD

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