

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 43572 of 2018

ORDER:

- 1) The present Writ Petition came to be filed seeking issuance of a Writ of Mandamus declaring the action of the third respondent in seizing the vehicle bearing No.A.P.02-TH-1243 of the petitioner without following any procedure under statutes as illegal and arbitrary and consequently direct the respondents to release the vehicle from their custody.
- 2) The averments in the affidavit filed in support of the Writ Petition would show that on 25.08.2018 the third respondent seized the vehicle on the ground that the petitioner was transporting Dolomite without valid way bills issued by the Mines and Geology Department. Referring to Rule 26(3)(iii) of the A.P. Minor Mineral Concession Rules, 1966, he would submit that if the petitioner has violated any law, the Officer can collect penalty, but has no power to seize the vehicle. In any event he would submit that since the petitioner is a permanent resident and having fixed abode, question of evading the process of law would not arise.
- 3) On the other hand, the learned Government Pleader for Mines and Geology Department would submit that the vehicle is

involved in illegal transportation and development which is in violation of the A.P. Minor Mineral Concession Rules. It is further stated that as per panchanama, the vehicle driver did not cooperate with the authorities in the process of interception and seizure. It is stated that on 25.09.2018 a joint inspection was conducted in respect of the crusher area of the petitioner, which is adjacent to the crusher area of M/s.Yerrithatha Minerals and while issuing demand notices imposed penalty.

4) As seen from the panchanama, which has been placed before this Court, the vehicle bearing No.A.P.02-TH-1243 was alleged to have been seized while the same was being loaded at the quarry. When they were trying to take the vehicle to station, the driver did not cooperate. On an information over phone to the S.I. of Police, he sent constables who also could not bring the vehicle to the Station. In the presence of the said police, the driver flee away from that place. The vehicle was seized along with stock in the presence of the Village Officers of Chandana and Lakshampalli. In the said factual aspects, whether the provisions of the Act would apply, requires consideration pending enquiry.

5) Having regard to the above, since the vehicle is with the concerned authorities, the petitioner herein shall make an application before the third respondent seeking interim custody of

the vehicle, in which event the authorities shall release the vehicle as per Rule 26(3)(iii) of the A.P. Minor Mineral Concession Rules, 1966 on payment of penalty equal to market value of the Mineral in the vehicle along with Seigniorage fee, pending further proceedings. Till conclusion of the proceedings/prosecution, the petitioner shall also give an undertaking that he will not alienate the vehicle, create any third party rights and remove major parts of the vehicle and that the vehicle will be produced as and when required during the course of proceedings. It is also made clear that this order holds good till the conclusion of the proceedings/prosecution. Thereafter, it is open for the respondents herein to proceed in accordance with law.

6) With the above direction, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel to it, miscellaneous petitions pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:06.12.2018

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