

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 2205 of 2019

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise for respondents.

2. This writ petition is filed challenging the order of confiscation dated 20.11.2018 passed by the 2nd respondent in Cr.No.B1/359/2017.

3. The petitioner asserts that his vehicle i.e., Tata Mini Van bearing No.AP 22 X 4661, was seized on the ground that it was involved in transportation of 405 litres of toddy illegally and without permission. He further asserts that against the show cause notice issued by the 2nd respondent on 14.02.2018 for confiscation of the seized property, he submitted his explanation on 26.02.2018 under proper acknowledgment. However, without considering the said explanation, the 2nd respondent passed the impugned order stating that "in reply to the show cause notice, the owner of the vehicle has failed to submit his explanation within stipulated time (not even till date)" and ordered confiscation of the contraband along with the vehicle seized.

4. Learned counsel for the petitioner has placed on record the explanation dated 26.02.2018, submitted by the petitioner to the 2nd respondent. The said explanation discloses the impression of the office stamp of the 2nd respondent. As the explanation submitted by

the petitioner is placed on record, this Court, on 06.02.2019, directed the learned Government Pleader to get instructions as to whether the petitioner has submitted explanation or not.

5. Today, when the matter is taken up, learned Government Pleader seeks time on the ground that no instructions were received from the office of the 2nd respondent.

6. Having regard to the nature of the relief sought and the specific assertion made by the petitioner in the affidavit and also the fact that this Court granted sufficient time to the respondents, I am not inclined to adjourn the matter. In those circumstances, the impugned order dated 20.11.2018, is set aside, giving liberty to the 2nd respondent to pass orders afresh after considering the explanation dated 26.02.2018 alleged to have been submitted by the petitioner.

7. Accordingly, the Writ Petition is allowed. No order as to costs.

8. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

13th February, 2019

sj

CHALLA KODANDA RAM, J