

**HIGH COURT FOR THE STATE OF TELANGANA  
(Special Original Jurisdiction)**

**MONDAY, THE EIGHTEENTH DAY OF MAY  
TWO THOUSAND AND TWENTY**

**PRESENT**

**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**WRIT PETITION No. 6777 OF 2020**

**Between:**

Asif Khan, S/o. Iqbal Khan, Aged about 30 years, Occ.Business, R/o. Old Chungi Naka Road, Gopalpura, Morena, Madhya Pradesh-476 001.

**...PETITIONER**

**AND**

1. The State of Telangana, Rep. by its Principal Secretary, Department of Prohibition and Excise T S Secretariat, Hyderabad.
2. The Deputy Commissioner of Prohibition and Excise, Adilabad, Adilabad District.
3. The Excise Superintendent, Asifabad Komurambheem District.
4. The Station House Officer, Prohibition and Excise, Khagaznagar, Asifabad, Komurambheem District.

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue Writ, Order or Direction especially one in the Nature of Writ of Mandamus declaring the seizure of petitioner vehicle bearing No. RJ 11 GA 9096 in COR No.87 of 2020 on 22-04-2020 is illegal, arbitrary, violate of Article 19 (1) (g) of the Constitution of India and also contrary to the provisions of Telangana Excise Act and consequently direct the respondents 2 to 4 to release the petitioner's vehicle bearing No. RJ 11 GA 9096 seized on 22-04-2020 ~~and~~

**IA NO: 1 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents 2 to 4 to release the petitioner's vehicle bearing No. RJ 11 GA 9096 forthwith, pending disposal of the main writ petition.

**IA NO: 2 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to receive the market fee receipt dt: 22-04-2020, national permit E-receipt dt: 04-01-2020, extract of the Chapter XVI sub rule 14 of Rule 138 (d) along with annexure of E-way rules in WP. No. 6777 of 2020.

**Counsel for the Petitioner: SRI CH. RAVINDER**

**Counsel for the Respondents: GP FOR PROHIBITION & EXCISE**

**The Court made the following:**

**ORDER:**

Heard learned counsel for the petitioner, and the learned G.P. for Prohibition and Excise.

On a perusal of the material placed before this Court, prima facie, this Court is satisfied that the jaggery, which is not a prohibited item, is being transported from Uttar Pradesh to the State of Telangana. There being no requirement of obtaining a Way Bill under the GST Rules, as is evident from the e-Way Bill Rules, and there being interstate transfer of the jaggery, on a mere suspicion that the goods being transported are for manufacture of illicit liquor, by itself, cannot be said to be an excise offence as there is no offence committed at that stage.

In the present case on hand, the goods have been seized from the transporter on a mere suspicion that the goods are being brought into the State of Telangana for manufacture of illicit liquor.

In those circumstances, prima facie, the seizure is illegal. However, as enquiry is required to be conducted, considering the fact that the transporter has no role except transporting the goods as a common carrier, the seized vehicle shall be released on the petitioner furnishing a Bank Guarantee / Fixed Deposit Receipt (FDR) for a sum of Rs.50,000/- (Rupees Fifty thousand only) with the 2nd respondent, the 3<sup>rd</sup> respondent shall release the vehicle in favour of the petitioner. The petitioner shall also furnish an undertaking that he shall not alienate or change the physical features of the vehicle. The 2nd respondent shall also write to the RTA authority to not transfer the vehicle on any third parties name without clearance from the Excise Department. The release of vehicle is in view of the peculiar situation existing on account of COVID-19, and the release shall be subject to the orders that shall be passed by the respondent authorities pursuant to the enquiry to be conducted under the provisions of Excise Act.

Accordingly, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

**Sd/- THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**// TRUE COPY //**

*P. Venkata*  
**REGISTRAR (JUDICIAL)**

*[Signature]*  
**SECTION OFFICER**

To,

1. The Principal Secretary, Department of Prohibition and Excise, State of Telangana, TS Secretariat, Hyderabad.
2. The Deputy Commissioner of Prohibition and Excise, Adilabad, Adilabad District.
3. The Excise Superintendent, Asifabad Komurambheem District.
4. The Station House Officer, Prohibition and Excise, Khagaznagar, Asifabad, Komurambheem District.
5. One CC to Sri. CH. Ravinder, Advocate [OPUC]
6. Two CCs to GP for Prohibition & Excise, High Court for the State of Telangana. [OUT]
7. Two CD Copies

Prk

HIGH COURT

CKRJ

DATED:18/05/2020

ORDER

WP. No. 6777 of 2020



Disposing of the WP.  
without costs.