

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

**THURSDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND TWENTY**

PRESENT

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO: 10956 OF 2020

Between:

Tatikonda Venkatesh, S/o Govindaiah, aged 63 years, Occ: Business, Proprietor,
Parimala Traders, r/o H.No.1-9-191, Weavers Colony, Gadwal Yown, Gadwal District.

...PETITIONER

AND

1. The State of Telangana, Rep by its Principal Secretary, Revenue, Prohibition and Excise Department, T.S. Secretariat, Hyderabad.
2. The Deputy Commissioner, Prohibition and Excise, Mahbubnagar District.
3. The Prohibition and Excise Superintendent, Wanaparty District.
4. The Station House Officer, Proh. and Excise Station, Kothakota, Wannaparty 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's vehicle bearing No.TS 06 UA 8621 in PCR No.105/2020 Dt. 25.04.2020 of SHO, Proh. and Excise, Kothakota, U/s 7 (A) r/w 8 (e) of TS Proh. Act 1995 and 34 (e) of AP Excise Act 1968 r/w 3 (b) & 4 (1) (iii) of Gur (Regulation of use) order 1968 clause III, and the confiscation proceedings of the second respondent in file No.B4/181/2020 dated 04.06.2020, as illegal arbitrary violative of Article 19 (1) (g) of the Constitution of India and also the Provisions of Telangana Excise Act and Consequently direct the respondents 2 to 4 to release the petitioner's vehicle/Lorry, bearing No.TS 06 UA 8621.

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 petitioners lorry/ vehicle bearing No.TS 06 UA 8621 along with Jaggery, pending disposal of the above writ petition.

Counsel for the Petitioner: SRI. MD. MURTUZA ALI FARUQUI

Counsel for the Respondents: GP FOR PROHIBITION AND EXCISE

The Court made the following: ORDER

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.10956 of 2020

ORDER:

Heard learned counsel for the petitioner, and learned Assistant Government Pleader for Prohibition & Excise Department.

Learned Counsel for the petitioner submits that he filed an appeal before the appellate authority, with a prayer for interim relief and the said appeal is pending.

Sri K. Uday Kumar, learned Assistant Government Pleader raises a preliminary objection with regard to maintainability of the writ petition on the ground that there is an alternative remedy of appeal in terms of Section 63 of the Telangana Excise Act.

Having regard to the respective submissions, considering that the appeal being a valuable right, the Division Bench of this Court in **Anab-E-Shahi Wines and Distilleries Private Limited v. Appellate Deputy Commissioner, Secunderabad Division, Nampally, Hyderabad¹**, had held that interim relief can be granted as neither the appeal nor the stay petition filed in the appeal are being taken up.

As the seized vehicle of the petitioner is lying with the 2nd respondent, and as the vehicle would only deteriorate and get damaged due to exposure to sun and rain, the 2nd respondent shall release the vehicle of the petitioner subject to the petitioner furnishing Fixed Deposit Receipt (FDR) for Rs.50,000/- with the 2nd respondent.

So far as the seized jaggery of 1800 Kilograms is concerned, the same shall be released subject to the petitioner furnishing a Fixed Deposit Receipt (FDR) for an amount calculated at Rs.25/- per Kilogram of the seized jaggery.

¹ [1995] 98 STC 386 (AP)

It is made clear that the interim release of the seized vehicle and the goods is in view of the situation existing on account of COVID-19, and the release shall be subject to the orders that shall be passed in the appeal pending before the appellate authority. Though the Commissioner being an appellate authority is not made a party respondent by the petitioner, the Commissioner, Prohibition and Excise, is directed to dispose of the appeal of the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

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

SD/- N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Revenue, Prohibition and Excise Department, State of Telangana, T.S. Secretariat, Hyderabad.
2. The Deputy Commissioner, Prohibition and Excise, Mahbubnagar District.
3. The Prohibition and Excise Superintendent, Wanaparty District.
4. The Station House Officer, Proh.and Excise Station, Kothakota, Wannaparty District.
5. One CC to Sri Md. Murtuza Ali Faruqui Advocate [OPUC]
6. Two CCs to the GP for Prohibition and Excise, High Court for the State of Telangana at Hyderabad. (OUT)
7. Two CD Copies

CHR



HIGH COURT

DATED:30/07/2020



ORDER

W.P.No.10956 of 2020

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

9
HMD
05/8/2020,