

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 17280 OF 2020

Between:

E.Rajesh, S/o E. Srinivasulu aged about 32 years, occ. business, R/o Jinnaram Village, Narva Mandal, Narayanpet District, Erstwhile Mahabubnagar District .

...PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary, Revenue (Excise) Department Secretariat, Hyderabad.
2. The Deputy Commissioner of Proh. And Excise, Mahabubnagar Division.
3. The Station House Officer, Narayanpet Proh. and Excise Station, Narayanpet 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 an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in not passing orders directing the 3rd respondent to release the Maruti Swift Car bearing Reg.No. TS-08-ES-8351 seized in C.O.R.No.103/2020, to the petitioner herein, inspite of the readiness to furnish third party surety, as being illegal, arbitrary and unjust and consequently direct the 2nd respondent to issue orders for release of the vehicle to the petitioner.

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 2nd respondent herein to issue orders directing the respondent No. 3 herein for release the Maruti Swift Car bearing Reg.No. TS-08-ES-8351 seized in C.O.R.No. 103/2020, pending disposal of the main Writ Petition.

Counsel for the Petitioner: M/s. PILLIX LAW FIRM

Counsel for the Respondents: GP FOR PROHIBITION AND EXCISE

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.17280 OF 2020****ORDER:**

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

2. This writ petition is filed praying to direct respondents to release Maruti Swift Car bearing registration No.TS-08-ES-8351, which was seized on the allegation of illegal transportation of liquor bottles.

3. According to the State Government, transportation of liquor and its distribution is prohibited. According to the State, consumption of liquor is *per se* harmful to health of a person and consumption of spurious liquor is more harmful and can result in instantaneous death. The officials in their endeavour to thwart any attempt to manufacture illicit liquor, seize the commodities and vehicles involved in illegal transportation. After seizure of the vehicles, confiscation proceedings are taken up and if the allegations are proved, the vehicle can be confiscated.

4. The Telangana Prohibition Act, 1995 and the Telangana Excise Act, 1968 regulate all aspects of liquor in the State of Telangana, including manufacture, distribution and consumption.

5. By placing reliance on several decisions of this Court, learned counsel for petitioner prayed to allow the writ petition directing the respondents to release the vehicle subject to deposit

of an amount of ₹ 1,50,000/- and compliance of further directions issued by this Court in several writ petitions.

6. The statement of learned counsel for petitioner that similar matters are disposed of with conditions, including furnishing fixed deposit/bank guarantee, as the case may be, is not disputed by the learned Assistant Government Pleader. However, he only emphasises that higher amount of fixed deposit should be directed to be furnished by the petitioner before seeking to release the vehicle. He further submits that the competent authority to deal with confiscation proceedings is the Deputy Commissioner and he alone is competent to release the vehicle pending completion of confiscation proceedings. He therefore submits that direction be given to the petitioner to file application before the Deputy Commissioner praying to grant interim custody of the vehicle.

7. In W.P.Nos.14801 and 14811 of 2020, dated 08.09.2020 on review of earlier decisions, this Court passed detailed orders. Following the same, this writ petition is disposed of with following directions:

- (i) Petitioner is granted liberty to file application before the Deputy Commissioner (2nd respondent) to grant interim custody of the vehicle.
- (ii) If such application is filed, pending final orders to be passed in confiscation proceedings, the 2nd respondent is directed to release Maruti Swift Car bearing registration No.TS-08-ES-8351 on petitioner furnishing fixed deposit receipt as proof of opening

fixed deposit account for an amount of
₹ 1,50,000/- (Rupees one lakh fifty thousand only).

- (iii) Petitioner is further directed not to encash the fixed deposit or create lien or mortgage on the fixed deposit till the conclusion of confiscation proceedings.
- (iv) Petitioner shall produce original R.C. Book of the vehicle at the time of seeking release of the vehicle.
- (v) Petitioner shall furnish undertaking that he will not transfer or alienate the vehicle to third party in any manner and will maintain the vehicle in the same good roadworthy condition without changing its major parts and features.
- (vi) Petitioner should produce the vehicle as and when directed by the concerned Court or competent authority.

Miscellaneous petitions, if any pending, stand closed.

SD/- N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

CR CR
SECTION OFFICER

To,

1. The Principal Secretary, Revenue (Excise) Department, State of Telangana, Secretariat, Hyderabad.
2. The Deputy Commissioner of Proh. And Excise, Mahabubnagar Division.
3. The Station House Officer, Narayanpet Proh. and Excise Station, Narayanpet District.
4. One CC to M/s. Pillix Law Firm, Advocate [OPUC]
5. Two CCs to GP for Prohibition and Excise, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies

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HIGH COURT

DATED:07/10/2020



ORDER

WP.No.17280 of 2020

DISPOSING OF THE WP
WITHOUT COSTS

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Dt 17/10/2020