

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

**THURSDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY**

PRESENT

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 17302 OF 2020

Between:

Bembde Aravind, S/o. Bembde Shyam Rao, Age. 30 years, Occ. Owner of the Vehicle bearing No. TS.01. EL 9147, R/o. H.No.5-59, Ramnagar, Dasnapur, Adilabad District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Prohibition and Excise Department, Secretariat, BRKR Bhavan, Hyderabad
2. The Deputy Commissioner of Prohibition and Excise, Adilabad, Adilabad Division, Adilabad
3. The Station House Officer, Prohibition and Excise Station, Echoda, Adilabad 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 by declaring the action of the 2nd respondent in not passing or directing the 3rd respondent to release the petitioner vehicle Bajaj CT 100 Motor Cycle bearing no. TS. 01. EL 9147 which was seized in C.O.R.No. 96 of 2020, dated 01/05/2020 of SHO, Proh. and Excise Station, Echoda as illegal, arbitrary, abuse of process of law, violation of principles of natural Justice and contrary to the provisions of TS Excise Act and the consequently direct the 2nd and 3rd respondent to release the petitioner vehicle Bajaj CT 100 Motor Cycle bearing no. TS. 01. EL 9147 which was seized in C.O.R.No. 96 of 2020, dated: 01.05.2020 of SHO, Proh. and Excise Station, Echoda in the interest of Justice.

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 and 3rd respondent to release the petitioner vehicle Bajaj CT 100 Motor Cycle bearing no. TS. 01. EL 9147 which was seized in C.O.R.No. 96 of 2020, dated 01/05/2020 of SHO, Proh. and Excise Station, Echoda in the interest of Justice pending disposal of the main Writ Petition.

Counsel for the Petitioner: SRI S. SURENDER REDDY

Counsel for the Respondents: AGP FOR PROHIBITION & EXCISE

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.17302 of 2020

ORDER:

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

2. This writ petition is filed praying to direct respondents to release Bajaj CT 100 Motor Cycle bearing registration No.TS 01 EL 9147 which was seized on the allegation of illegal transportation of I.D. Liquor.

3. According to State Government, producing illicit 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 on deposit of an amount of ₹.10,000/- 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 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. Having regard to the consistent view taken by this Court, this Court on similar issue, passed detailed orders in W.P. Nos.14801 and 14811 of 2020 dated 8.9.2020. Following the same, this writ petition is disposed of with following directions:

(i) Petitioner is granted liberty to file application to 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, 2nd respondent is directed to release Bajaj CT 100 Motor Cycle bearing registration No.TS 01 EL 9147, on petitioner furnishing fixed deposit receipt as proof of opening fixed deposit account for an amount of ₹.10,000/- (Rupees Ten 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) The 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.

No costs. Miscellaneous petitions, if any pending, stand closed.

//TRUE COPY//

SD/-B.SATYAVATHI
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary, Prohibition and Excise Department, State of Telangana, Secretariat, BRKR Bhavan, Hyderabad
2. The Deputy Commissioner of Prohibition and Excise, Adilabad, Adilabad Division, Adilabad
3. The Station House Officer, Prohibition and Excise Station, Echoda, Adilabad District.
4. One CC to Sri. S. Surender Reddy, Advocate [OPUC]
5. Two CCs to GP for Prohibition & Excise, High Court for the State of Telangana, [OUT]
6. Two CD Copies

Prk



HIGH COURT

DATED:08/10/2020

ORDER

WP.No.17302 of 2020



Disposing of the WP.
without costs.

^{SV}
Scopied
Dt-13/10/2020