

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

WEDNESDAY, THE TWENTY FIRST DAY OF OCTOBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 18351 OF 2020

Between:

Chennaboina Srikanth, S/o Chennaboina Satyanarayana Aged about 26 years,
R/o H.No. 3-10-105-23, Bazar Kachiguda, Amberpet, Hyderabad.

...PETITIONER

AND

1. State of Telangana, Rep. by its Principal Secretary, Revenue (Excise)
Department Secretariat, Hyderabad
2. The Deputy Commissioner of Proh. and Excise, Warangal Division, Warangal
3. The Station House Officer, Hasanparthy Police Station, Warangal 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 petitioners Bolero Maxi Truck bearing Reg.No. TS-11-UB-6442 in FIR No. 146/2020, inspite of readiness to furnish third party surety, as being illegal, arbitrary and unjust and consequently direct the 2nd respondent to order for release of the vehicle and the stocks 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 of the Bolero Maxi Truck bearing Reg. No. TS-11-UB-6442 in FIR No. 146/2020, pending disposal of the main Writ Petition

Counsel for the Petitioner: Dr. SOFIA BEGUM

Counsel for Respondent Nos. 1 & 2: GP FOR PROHIBITION

Counsel for Respondent No. 3: GP FOR HOME

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.18351 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 petitioner's Bolero Maxi Truck vehicle bearing registration No.TS-11-UB-6442, which was seized on the allegation of illegal transportation of Alum and Jaggery, which are used for preparation of ID 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 ₹ 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 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) On filing such application, pending final orders to be passed in confiscation proceedings, 2nd respondent is directed to release of Bolero Maxi Truck vehicle bearing registration No.TS-11-UB-6442, on petitioner furnishing fixed deposit receipt as proof of opening fixed deposit account for an amount of 1,50,000/- (Rupees one lakh and 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) 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.

Miscellaneous petitions, if any pending, stand closed.

SD/-K.AMMAJI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Revenue (Excise) Department, State of Telangana Secretariat, Hyderabad
2. The Deputy Commissioner of Proh. and Excise, Warangal Division, Warangal
3. The Station House Officer, Hasanparthy Police Station, Warangal District.
4. One CC to Dr. SOFIA BEGUM Advocate [OPUC]
5. Two CCs to GP For Prohibition, High Court for the State to Telangana. [OUT]
6. Two CCs to GP for Home, High Court for the State of Telangana (OUT)
7. Two CD Copies

MBC

HIGH COURT
DATED: 21/10/2020



ORDER
WP.No.18351 of 2020

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

10
29/10/2020