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

WEDNESDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 23113 OF 2020

Between:

Gudelli Venkatamma, W/o. Chandraiah, Aged about 48 Years, Occ: Business, R/o. H. No. 10-2296/A, Kishan Nagar, Karimnagar.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Prohibition and Excise Department, Secretariat, Hyderabad
2. The Dy. Commissioner, Prohibition and Excise Department, Karimnagar, Karimnagar District.
3. The Station House Officer, Excise Police Station, Peddapalli, Peddapalli District (erstwhile Karimnagar 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 a writ order, or direction more particularly one in the nature of writ Mandamus declaring the action of the respondent No.2 in not issuing orders directing 3rd respondent to release goods carriage-LMV Ashok Lay land vehicle bearing no. TS 02 UC 2332 seized in COR No. 149/2020 on the file of 3rd respondent as interim custody to the petitioner in spite of readiness to furnish surety as being illegal, arbitrary and contrary to law apart from violation of principles of natural justice besides violation of Articles 14 and 21 of the Constitution of India and consequently direct the respondent No. 2 and 3 to release the petitioner goods carriage-LMV Ashok Lay land vehicle bearing no. TS 02 UC 2332 seized in COR No. 149/2020 as interim custody.

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 respondent No.2 and 3to release the petitioners goods carriage-LMV Ashok Lay land vehicle bearing No. TS 02 UC 2332 in COR No. 149/2020 as interim custody to the petitioner, pending disposal of the writ petition.

Counsel for the Petitioner: SRI. N. INDRASENA REDDY

Counsel for the Respondents: AGP FOR PROHIBITION & EXCISE

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.23113 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 the goods carriage – LMV Ashok Lay Land vehicle bearing Registration No.TS 02UC 2332, which was seized on the allegation of illegal transportation of ID liquor.

3. According to the 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 to deposit of amount of Rs.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 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. 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 the goods carriage – LMV Ashok Lay Land vehicle bearing Registration No.TS 02UC 2332 on petitioner furnishing fixed deposit receipt as proof of opening fixed deposit account for an amount of Rs.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 she 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/-CH.VENKATESWARULU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Prohibition and Excise Department, State of Telangana, Secretariat, Hyderabad
2. The Dy. Commissioner, Prohibition and Excise Department, Karimnagar, Karimnagar District.
3. The Station House Officer, Excise Police Station, Peddapalli, Peddapalli District (erstwhile Karimnagar District
4. One CC to Sri N. Indrasena Reddy, 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

CHR

HIGH COURT

DATED:23/12/2020



ORDER

W.P.No.23113 of 2020

DISPOSING OF THE WRIT PETITION WITHOUT COSTS

SJV
8 Copies
Dt 2/01/2021