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

WEDNESDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO. 24088 OF 2020

Between:

Sayyad Naser Ali, S/o. Sayyad Jakerali, Aged years, Occ: Business, R/o. Shivaji Nagar Nilanga, Latur District, Maharashtra State.

...PETITIONER

AND

1. State of Telangana, Represented by Principle Secretary, Prohibition and Excise Department, Secretariat, Hyderabad, Telangana.
2. The Commissioner of Prohibition and Excise, Mukhramjha Road, Abkari Bhavan, 2nd Floor, Hyderabad.
3. The Dy. Commissioner, Prohibition and Excise, Prohibition and Excise Department, Mahbubnagar District.
4. Station House Officer, Prohibition Excise Station, Achampet, Mahaboobnagar.

...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 of Mandamus declaring the act of Respondent no.2 in not passing any order in the IA filed on 19.11.2020 along with the Appeal filed against the Order passed on 29.10.2020 by the Respondent No.3 in Procs. PCOR no.85/2020 before the respondent No.2 for grant of interim custody of the Lorry No.MH24AB9486, Make/Model and Variant - Ashok Leyland/2616 and 2/cg + Tg Twin Goods, Engine No. / Chassis No. CSHZ114607/MB1CTDYCXCPSF3689, RTO Location - Maharashtra - Latur, as being illegal, arbitrary, unjust and constitutional and consequently direct the Respondent No.2 to dispose of the IA as expeditiously as possible 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 Respondent No.2 to forthwith grant interim custody of the Lorry No.MH24AB9486, Make/Model and Variant - Ashok Leyland/2616 and 2/cg + Tg Twin Goods, Engine No. /Chassis No. CSHZ114607/MB1CTDYCXCPSF3689, RTO Location - Maharashtra - Latur, seized in PCOR No.85/2020 dated 11.6.2020 pending disposal of main writ petition.

Counsel for the Petitioner: SRI DAMODAR MUNDRA

Counsel for the Respondents: GP FOR PROHIBITION AND EXCISE

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.24088 OF 2020

ORDER:

Petitioner claims to be the owner of goods transport vehicle bearing registration No.MH-24-AB-9486. The said vehicle was seized in COR No.85/2020 on the file of Prohibition and Excise Station, Achampet. Petitioner filed W.P.No.14089 of 2020 praying to direct the respondents to grant interim custody of the vehicle pending disposal of confiscation proceedings. The said writ petition was disposed of directing the respondents to grant interim custody subject to petitioner furnishing fixed deposit receipt for a sum of ₹ 50,000/-. Accordingly, petitioner furnished the fixed deposit receipt for ₹ 50,000/-. On 28.10.2020, the Deputy Commissioner of Prohibition and Excise passed orders granting interim custody. However, on 29.10.2020, he passed final orders in confiscation proceedings directing confiscation of the subject vehicle. Aggrieved thereby, petitioner preferred Appeal No.1621 of 2020. Along with the appeal, petitioner also filed application to grant interim custody of the vehicle.

2. Learned counsel for petitioner submits that even though this Court directed the respondents to grant interim custody of the subject vehicle and even though the orders passed on 28.10.2020 granting interim custody, the custody of the vehicle is not given on the ground that confiscation proceedings are passed, and the vehicle gets damaged if the interim custody is not granted pending appeal, whereas the appellate authority has not passed any orders in the interlocutory application. Copy of the appeal along with the application is filed in the writ petition paper book as Ex.P4.

3. Merely because the Court directed to grant interim custody, and in compliance with the directions of the Court, orders are passed granting interim custody does not mean that competent authority is restrained from taking a decision in confiscation proceedings. Further, by the time interim custody of the vehicle is delivered, if confiscation proceedings are passed, petitioner cannot contend that unless interim custody is granted to him, confiscation proceedings cannot be passed.

4. However, as petitioner availed the statutorily engrafted remedy of appeal and along with the appeal also, he moved an application to grant interim custody of the vehicle, without expressing any opinion on merits of the respective submissions, Writ Petition is disposed of, directing the Commissioner of Prohibition and Excise to pass orders in the Appeal preferred by the petitioner after affording due opportunity to him. He shall also consider the interlocutory application and pass appropriate orders, as warranted by law, within a period of two weeks from the date of receipt of a copy of this order. Pending miscellaneous petitions shall stand closed.

SD/-B.SATYAVATHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Prohibition and Excise Department, State of Telangana, Secretariat, Hyderabad, Telangana.
2. The Commissioner of Prohibition and Excise, Mukhramjha Road, Abkari Bhavan, 2nd Floor, Hyderabad.
3. The Dy. Commissioner, Prohibition and Excise, Prohibition and Excise Department, Mahbubnagar District.
4. The Station House Officer, Prohibition Excise Station, Achampet, Mahaboobnagar.
5. One CC to Sri Damodar Mundra, Advocate [OPUC]
6. Two CCs to GP for Prohibition and Excise, High Court for the State of Telangana at Hyderabad. [OUT]
7. Two CD Copies.

MP

HIGH COURT

DATED:30/12/2020



ORDER

WP.No.24088 of 2020

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

SSV
9 Copies
Dt 05/01/2021