

18.05.2021
Item No. 06
Ct. No. 04
PG

**W.P.A. 7955 of 2021
(Via Video Conference)**

**Subhasis Satpathy
Vs.
The State of West Bengal & Ors.**

Mr. Soumyajit Das Mahapatra.....for petitioner

Mr. T.M. Siddique
Mr. Nilotpall Chatterjee.....for State

This writ petition carries prayers for release of truck bearing registration no. WB 49-1832. Mr. Mahapatra, learned advocate appears on behalf of petitioner and submits, the truck was carrying consignment of sand. The driver had valid documents for transportation of the consignment. The truck was intercepted and seized on 8th March, 2021. The petition was moved on 4th May, 2021 before coordinate Bench (Moushumi Bhattacharya, J.). There was direction upon State order made that day. He relies on extract therefrom, reproduced below:

“.....In view of the clear non-compliance with the statutory requirements on the part of the concerned respondent-authorities, the respondent nos. 3, 4 and 5 are directed to file a report in the form of an affidavit stating the steps they have taken before seizing the petitioner’s vehicle and also indicating whether the statutory requirements for seizing the vehicle have been duly complied with. The report shall be filed within 72 hours from the date of this order failing which the respondent-authorities shall release the

petitioner's vehicle bearing registration number indicated in the writ petition."

He submits, said order was made on clearly recording that a safe custody document dated 8th March, 2021 was handed after seizing the truck. The safe custody document is disclosed in the writ petition. Contents thereof are contradictory to the report, particularly its annexure-A.

Mr. Siddique, learned advocate, Senior Government Advocate appears on behalf of State and draws attention to the annexure in the report. He submits, it is clearly recorded in order no. 1 dated 8th March, 2021, made by BL & LRO, Jhargram that the transportation documents were issued at 8.17 A.M. in the morning of 8th March, 2021 and the truck was intercepted in the evening, at 9.00 p.m. Clearly, on same documents there were repeated transportations justifying the seizure.

Perusal of the safe custody document handed over to petitioner reveals, basis of seizure was that the truck was carrying 329 square feet approximately of excess sand without any authority and carrying orders/challan, as required and therefore, theft. It appears that documents covering 330 cubic feet of sand were produced by driver of the vehicle. There is clear contradiction between the safe custody document issued after the seizure and order no. 1 dated 8th March, 2021 issued in respect of the

seizure. The order seeks to justify the interception on basis of presumption of several transportations under one single set of documents. This presumption appears to have been made on reliance of the following stated in the road challans:-

“Loaded vehicle must depart for its destination within 30 minutes from issuance of this challans....”

Petitioner made several representations saying he is unable to pay the penalty demand of Rs.1 lac and for initiation of proceeding in accordance with law. Neither in the representations nor in the petition there is explanation as to why the truck was moving with the load, long after issuance of the challans. On the other hand, having made the representations, all bearing acknowledgment of receipt, there appears to have been conducted exparte proceedings against petitioner, confirming the demand.

In the circumstances, there will be order for release of the vehicle including its load in the condition it was intercepted, upon petitioner paying penalty of Rs.25,000/-. Petitioner will produce this order before the authority and the truck is to be released forthwith.

With above direction, the writ petition is disposed of.

(Arindam Sinha, J.)

