

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

WEDNESDAY, THE SIXTH DAY OF JANUARY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 177 OF 2021

Between:

Badavath Sumanth, S/o Mangilal, (present owner of the vehicle AP 20 TB 3104 Chava Dhanalaxmi W/o Subbaiah previous owner of the vehicle) Aged about 25 years, Occ. Business, R/o. Addasikunta Thanda, Vernoor, Mahabubabad District.

...PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary to Revenue (Excise) Department, Secretariat, Hyderabad.
2. The Deputy Commissioner of Proh. and Excise, Mahabubabad District.
3. The Station House Officer, Police Station Mahabubabad (R), Mahabubabad 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 or order 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 for release of the petitioners vehicle bearing No. AP 20 TB 3104 which was seized in connection with FIR.No.113 of 2020 on the file of the Station House Officer Mahabubabad Rural Police Station, Mahabubabad District in spite of the petitioner readiness to furnish the third party surety as being illegal, arbitrary and unjust and consequently direct the 2nd respondent to release the vehicle bearing No. AP 20 TB 3104 to the petitioner.

IA NO: 1 OF 2021

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 to issue orders directing the 3rd respondent to release the petitioner vehicle i.e., bearing No. AP 20 TB 3104 which was seized in connection with FIR.No.113 of 2020 on the file of Station House Officer, Mahabubabad Rural Police Station, Mahabubabad District pending disposal of the above writ petition.

Counsel for the Petitioner: M/s. SRAVANTHI REDDY JINNA

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

Counsel for the Respondent No.3: AGP FOR HOME

The Court at the stage of admission made the following: ORDER

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.177 OF 2021

ORDER:

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

2. This writ petition is filed praying to direct respondents to release the Goods Carriage-LMV vehicle bearing registration No.AP 20TB 3104 which was seized on the allegation of illegal transportation of jaggery and Alum.
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 Rs.30,000/- (Rupees Thirty Thousand only) 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) Pending final orders to be passed in confiscation proceedings, 2nd respondent is directed to release Goods Carriage-LMV vehicle bearing registration No.AP 20TB 3104 on petitioner furnishing fixed deposit receipt as proof of opening fixed deposit account for an amount of 30,000/- (Rupees Thirty 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/-N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary to Revenue (Excise) Department, State of Telangana, Secretariat, Hyderabad.
2. The Deputy Commissioner of Proh. and Excise, Mahabubabad District.
3. The Station House Officer, Police Station Mahabubabad (R), Mahabubabad District.
4. One CC to M/s. Sravanthi Reddy Jinna, Advocate [OPUC]
5. Two CCs to GP for Prohibition and Excise, High Court for the State of Telangana at Hyderabad, [OUT]
6. Two CCs to GP for Home, High Court for the State of Telangana at Hyderabad. [OUT]
7. Two CD Copies

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HIGH COURT

DATED:06/01/2021

ORDER

W.P.No.177 of 2021



DISPOSING OF THE WRIT PETITION
AT THE STAGE OF ADMISSION
WITHOUT COSTS

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S. J. S. Rao
08/01/2021