

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.1841 of 2021

Date:29.01.2021

Between:

Ajay Tiwari, S/o.Deenath Tiwari,
Aged about 40 yrs, Occu : Owner of vehicle,
R/o.H.No.6/6, Raajev Gruhakalpa,
Shivarampally, Laxmiguda,
Rajendranagar Mandal,
R.R.District.

.....Petitioner

And

The State of Telangana,
rep by its Principal Secretary,
Consumer Affairs, Food and Civil Supplies Department,
Secretariat, Hyderabad & others.

.....Respondents



The Court made the following:

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ORDER:

Heard. With the consent of learned counsel for the petitioner, learned Government Pleader for Civil Supplies appearing for respondents 1 and 2 and learned Assistant Government Pleader for Home appearing for respondent No.3, the writ petition is disposed of at the admission stage.

2. Petitioner claim to be the owner of Ashok Leyland Auto vehicle bearing No.TS 07 UJ 8152, which was manufactured in the year 2020. Aggrieved by the action of the respondents in seizing the vehicle bearing No.TS 07 UJ 8152 in connection with Crime No.81 of 2021 on the ground that the vehicle was used for illegal transportation of PDS rice, the present writ petition is filed.

3. As fairly submitted by learned Counsel for petitioner and learned Government Pleader, enquiry under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') and prosecution in the crime is yet to commence.

4. Enquiry under Section 6-A of the Act and investigation/prosecution into the crime registered against petitioner may take considerable time. Meanwhile, as the vehicle is kept in the openyard exposed to sun and other weather conditions and kept idle, road worthiness of the vehicle may be severely affected. At the same time, as the vehicle is involved in a crime and violated statutory regulations, it can not be handed over to the owner even before proceedings are concluded. Such course may bolster the offender to commit further offences and is not in public interest. In the circumstances, the Court has to balance

respective claims and take due note of public interest. In the given facts Court is inclined to opt a middle path.

5. In view of the same and having regard to the facts and circumstances of the case, without expressing any opinion on merits, the writ petition is disposed of directing the 3rd respondent- Station House Officer, Uppal Police Station/the Joint Collector, Ranga Reddy District, as the case may be to release the vehicle in issue, subject to following conditions :

(a) The petitioner shall furnish fixed deposit receipt as proof of opening of fixed deposit account for an amount of .75,000/- (Rupees Seventy Five Thousand only)/or bank guarantee for the equal sum; (b) he shall furnish an undertaking in writing that he will not alienate or change the physical features of the vehicle; (c) he shall produce the vehicle whenever required; (d) he shall furnish the copies of R.C. Book of the vehicle and driving licence of the driver; (e) the 3rd respondent/the Joint Collector, Ranga Reddy District shall write to the RTA authorities not to entertain any application to transfer the vehicle in question on any third party's name without clearance from the Civil Supplies Department; (f) the release of the vehicle shall be subject to the orders to be passed in the enquiry under Section 6-A of the Act/prosecution of Crime No.81 of 2021.

6. With reference to alleged seizure of mobile phone and cash, liberty is granted to the petitioner to avail appropriate remedies as provided by the Code of Criminal Procedure. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

29th January, 2021
Rds

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