

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

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 26072 OF 2022

Between:

Lavoori Kheli, W/o Ranga Aged about 44 years, Occ Agriculture R/o. H.No 1-193, Vachya Thanda Damarcherla Mandal, Nalgonda District. (Owner of the Vehicle)

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Prohibition and Excise Department Hyderabad.
2. Deputy Commissioner Prohibition and Excise, Nalgonda District, at Nalgonda.
3. The SHO Prohibition and Excise Station, Miryalaguda, Nalgonda District.
4. Lavoori Ranga, S/o L. Litruna Aged about 47 years, Occ. Agriculture R/o. H.No.1-220, Wachya Thanda, Damarcherla Mandal, Nalgonda 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 any writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the Respondents herein more particularly Respondents 2 and 3 in not releasing the vehicle Motor Cycle bearing registration No.TS05FF8064 SPLENDER plus Chassis No.MBLHAW124L4C14637, Engine No.HA11EYL4C03499 color BIZ, to the petitioner herein who is Registered Owner of the said vehicle as illegal and arbitrary, in violation of natural justice and consequently direct the Respondents 2 and 3 herein to release the vehicle Motor Cycle bearing registration No. TS05FF8064 SPLENDER plus, Chassis No.MBLHAW124L4C14637, Engine No.HA11EYL4C03499 color BKS to the petitioner herein who is Registered Owner of the said vehicle in the interest of justice.

IA NO: 1 OF 2022

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 Respondents 2 and 3 in not releasing the vehicle Motor Cycle bearing registration No. TS05FF8064 SPLENDER + Chassis No.MBLHAW124L4C14637, Engine No.HA11EYL4C03499 color BKS. pending disposal of the main Writ Petition.

Counsel for the Petitioner: SRI V. RAGHAVA REDDY

Counsel for the Respondents: GP FOR PROHIBITION EXCISE

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.26072 of 2022

ORDER:

This Writ Petition is filed seeking a *Writ of Mandamus* to declare the action of the 2nd respondent in not directing the 3rd respondent to release Two Wheeler Vehicle bearing Registration No.TS 05 FF 8064, seized in connection with COR No.8 of 2022 on the file of Prohibition and Excise Police Station, Miryalaguda, in spite of readiness of the petitioner to furnish the third party surety, as illegal, arbitrary and unconstitutional.

2. Heard counsel for the petitioner, learned Government Pleader for Excise appearing for respondent Nos.1 to 3 and with their consent, the Writ Petition is taken up for hearing and disposal at the stage of admission.

3. Petitioner contends that while she is the owner of the vehicle, on the day when the said vehicle was seized by the respondents-authorities as being involved in illegal transportation of ID, it was given to her husband, whereupon the respondents have registered a case in COR No.8 of 2022 on the file of Prohibition and Excise Police Station, Miryalaguda; and that the petitioner is willing to furnish a third party security to the extent of the value of the vehicle and in spite of the readiness expressed by her, the respondents, in particular the 2nd respondent, is not directing the 3rd respondent to release the said vehicle and the said action of the respondents-authorities in seizing the vehicle and keeping it in open space, resulting in damage to the said vehicle, is contrary to the judgment of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai V/s. State of Gujarat***¹.

¹ (2002) 10 SCC 283

4. Learned Government Pleader, on the other hand, submits that in terms of the provisions of Section 46 of the Telangana Excise Act, 1968 (for short, 'the Act'), the petitioner can approach the respondents-authorities, in particular the 2nd respondent, and make an application seeking release of the vehicle, which would be considered by the said authority.

5. Learned Government Pleader has also brought to the notice of this Court a similar order passed in W.P.No.14663 of 2020, dated 03.09.2020, wherein this Court directed the petitioner therein to approach the 2nd respondent, i.e. the Deputy Commissioner, by making an application and on such application being made, directed the said authority to consider the said application within a time frame.

6. Since in the present case the petitioner is similarly situated and for the reasons alike as were stated in the order dated 03.09.2020 passed in W.P.No.14663 of 2020, the petitioner is directed to approach the 2nd respondent by making an application under Section 46 of the Act seeking release of two wheeler vehicle bearing registration No. TS 05 FF 8064, seized in connection with COR No.8 of 2022 on the file of Prohibition and Excise Police Station, Miryalaguda, and on such application being filed seeking release of the subject vehicle, the said authority shall consider and dispose of the same in accordance with law, as expeditiously as possible, preferably within a period of two weeks from the date of receipt of the application.

7. Subject to the above, the Writ Petition is disposed of. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. No order as to costs.

SD/-N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Prohibition and Excise Department State of Telangana Hyderabad.
2. The Deputy Commissioner Prohibition and Excise, Nalgonda District, at

3. The SHO Prohibition and Excise Station, Miryalaguda, Nalgonda District.
4. One CC to SRI V. RAGHAVA REDDY Advocate [OPUC]
5. Two CCs to GP FOR PROHIBITION EXCISE, High Court for the State of Telangana at Hyderabad . [OUT]
6. Two CD Copies.
7. One Spare Copy.

NPJ

BS

8

HIGH COURT

DATED:20/06/2022



ORDER

WP.No.26072 of 2022

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS.

(9) Copies
Sent
11/7/22