

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

**FRIDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 33788 OF 2023

Between:

Gadem Padma, W/o. Koraiah, Age. 48 years, Occ. Owner of the Activa Scooty Vehicle bearing No. TS 24 G 1868, R/o.H.No.3-125, Pakhalashok Nagar, Khanapur, Warangal District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Prohibition and Excise Department, Secetariate, Hyderabad.
2. The Deputy Commissioner of Prohibition and Excise, Warangal, Warangal District.
3. The Station House Officer, Narsampet Prohibition and Excise Station, Warangal 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 an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the in action of the 2nd respondent to release the Petitioner's Activa Scooty Vehicle bearing No. TS 24 G 1868 seized in COR No.584/2023 dated. 17/11/2023, seized of petitioner's vehicle was being illegal, arbitrary and unjust also Article 14, 19, 21 and 300-A of the Constitution of India and consequently direct the 2nd respondent to release of the vehicle to the petitioner forthwith.

IA NO: 1 OF 2023

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 release the Petitioner's Activa Scooty Vehicle bearing No. TS 24 G 1868 seized in COR No.584/2023 dated. 17/11/2023, pending disposal of the above writ petition.

Counsel for the Petitioner: SRI LAXMAIAH KANCHANI

Counsel for the Respondents: AGP FOR PROHIBITION EXCISE

The Court made the following: ORDER

HON'BLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION No.33788 of 2023

ORDER:

This writ petition is filed to issue writ of mandamus declaring the inaction of respondent No.2 to release the Activa Motorcycle bearing No.TS 24 G 1868, which was seized in C.O.R.No.584 of 2023, dated 17.11.2023, as illegal and arbitrary and for other reliefs.

2. The petitioner claims to be the registered owner of Activa Motorcycle bearing No.TS 24 G 1868. The said vehicle was seized in C.O.R.No.584 of 2023 which was registered for an offence punishable under Section 34 (a) of the Telangana Excise Act, 1968 (for short "the Act").

3. The contention of the learned counsel for the petitioner is that Section 45 of the Act provides that whenever an offence has been committed, which is punishable under the Act the things mentioned in Section 45 of the Act are liable for confiscation. Section 46 of the Act mandates the authority competent to seize the items mentioned in Section 45 of the Act to produce before the Deputy Commissioner of Prohibition and Excise. On

production of the seized property, the Deputy Commissioner is required to conduct proceedings for confiscation and if he is satisfied that an offence is committed under the Act, he may order for confiscation of the property seized. The Deputy Commissioner is also authorised to conduct public auction or dispose of the property so confiscated. Against the order of the confiscation, an appeal would lie under Section 46-C of the Act. Learned counsel for the petitioner further submitted that this Court has passed several orders directing the respondents to release the seized vehicles subject to the petitioner depositing the value of the vehicles and also furnishing an undertaking that pending confiscation proceedings, the vehicle shall not be alienated.

4. Having regard to the consistent view taken by this Court, the petitioner is also entitled to relief of directing respondents to release his vehicle. Accordingly, the writ petition is disposed of, with the following directions:-

(i) Pending final orders to be passed in confiscation proceedings, respondents are directed to release the Activa Motorcycle bearing No.TS 24 G 1868 on petitioner

furnishing fixed deposit receipt as proof of opening fixed deposit account for an amount of Rs.10,000/-.

(ii) The petitioner is further directed not to encash the fixed deposits or create lien or mortgage on the fixed deposits till the conclusion of confiscation proceedings.

(iii) The petitioner shall produce original R.C. Book of the vehicle at the time of release of the vehicle.

(iv) The 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.

(v) The petitioner shall furnish undertaking that he should produce the vehicle as and when directed by the concerned Court or competent authority.

There shall be no order as to costs. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

//TRUE COPY//

SD/-A.V.S.PRASAD
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary, Prohibition and Excise Department, Secetariate, Hyderabad, State of Telangana.
2. The Deputy Commissioner of Prohibition and Excise, Warangal, Warangal District.
3. The Station House Officer, Narsampet Prohibition and Excise Station, Warangal District.
4. One CC to SRI LAXMAIAH KANCHANI, Advocate [OPUC]
5. Two CCs to GP FOR PROHIBITION EXCISE, High Court for the State of Telangana at Hyderabad [OUT]
6. Two CD Copies

BSR
GJP



HIGH COURT

DATED: 15/12/2023

ORDER

WP.No.33788 of 2023



**DISPOSING OF THE WRIT PETITION,
WITHOUT COSTS**

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19/12/23