

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

MONDAY, THE TWENTY NINTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 2056 OF 2024

Between:

Bitra Bhanu Prakash, S/o Gandhi Prasad, Aged about 50 Years, Occ: Owner
of Vehicle, R/o H.No. 4-316a, Pandaripuram, Chilkaluripet, Guntur District

...PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary, Excise Department
Secretariat, Hyderabad
2. The Deputy Commissioner of Prohibition and Excise, Warangal, Warangal
District.
3. The Station House Officer, Danthalapally Police Station, 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 an order or direction more particularly one in the Nature of Writ of Mandamus Declaring that the action of the respondent authorities in not releasing the Petitioners Goods Carriage Vehicle (LMV) bearing No. AP07TD5941 seized in F.I.R.No. 2 of 2024 on the file of 3rd respondent, inspite of the readiness of the petitioner to furnish the third party surety, as being illegal, arbitrary and unjust, and consequently direct the respondent authorities to release the vehicle.

IA NO: 1 OF 2024

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 respondent authorities herein to release the Petitioners Goods Carriage Vehicle (LMV) bearing No. AP07TD5941 seized in F.I.R.No. 2 of 2024 on the file of 3rd respondent, pending disposal of the main Writ Petition.

Counsel for the Petitioner: SRI GAJANAND CHAKRAVARTHI

Counsel for the Respondent No.1 & 2: ASST. GP FOR PROHIBITION & EXCISE

Counsel for the Respondent No.3: GP FOR HOME

The Court made the following: ORDER

HON'BLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION No.2056 of 2024

ORDER:

This writ petition is filed to issue writ of mandamus declaring the action of the respondent authorities in not releasing the petitioner's vehicle i.e., Goods Carriage Vehicle (LMV) bearing No.AP 07 TD 5941 which was seized in Crime No.2 of 2024, dated 09.01.2024, as illegal and arbitrary and for other reliefs.

2. The petitioner claims to be the registered owner of Goods Carriage Vehicle (LMV) bearing No.AP 07 TD 5941. The said vehicle was seized in Crime No.2 of 2024 which was registered for an offence punishable under Section 34 (c) 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 Goods Carriage Vehicle (LMV) bearing No.AP 07 TD 5941 on petitioner furnishing fixed deposit receipt as proof of opening fixed deposit account for an amount of Rs.50,000/-.

(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.

SD/-P.PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Excise Department, The State of Telangana, Secretariat, Hyderabad
2. The Deputy Commissioner of Prohibition and Excise, Warangal, Warangal District.
3. The Station House Officer, Danthalapally Police Station, Mahabubabad District
4. One CC to SRI GAJANAND CHAKRAVARTHI, Advocate [OPUC]
5. Two CCs to GP FOR PROHIBITION & EXCISE, High Court for the State of Telangana. [OUT]
6. Two CCs to GP FOR HOME, High Court for the State of Telangana. [OUT]
7. Two CD Copies

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HIGH COURT

DATED:29/01/2024

ORDER

WP.No.2056 of 2024



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

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9/2/24