

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

**TUESDAY, THE SIXTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 3051 OF 2024

Between:

Bhukya Swathi, W/o.Naresh Aged about 30 years, Occ: House Wife, R/o. Kalvapally Thanda village, Garidepally Mandal, Suryapet district. (Owner of the Vehicle)

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Department of Prohibition and Excise Secretariat building, Hyderabad T.S
2. The Deputy Commissioner of Prohibition And Excise, Nalgonda, Nalgonda District.
3. The Station House Officer, Prohibition and Excise, Excise Station Huzurnagar, Suryapet 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 action of the respondent no.2 in not passing/directing the 3rd respondent to release the PULSOR 150 DTS-I Motor Cycle bearing registration no. TS-29 H-3150, Seized in COR.No.8 of 2024 dt.08-01-2024, is illegal, arbitrary, violation of the principles of natural justice and violative of Article 19 (1) (g) of the Constitution of India and also contrary to the provisions of Telangana Excise Act and consequently direct the respondent no.2 to order for release of the vehicle to the petitioner in COR.No.8 of 2024 dt. 08-01-2024.

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 2nd respondent herein to issue orders directing the 3rd respondent to release the PULSOR 150 DTS-I Motor Cycle bearing registration no. TS-29 H-3150, Seized in COR.No.8 of 2024, dt.08-01-2024, forthwith pending disposal of the main writ petition.

Counsel for the Petitioner: SRI K. VENKATARAMANAIAH

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following: ORDER

HON'BLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION No.3051 of 2024

ORDER:

This writ petition is filed to issue writ of mandamus declaring the action of respondent No.2 in not directing respondent No.3 to release the petitioner's vehicle i.e., Pulsar Motorcycle bearing No.TS 29 H 3150, which was seized in C.O.R.No.8 of 2024, dated 08.01.2024, as illegal and arbitrary and for other reliefs.

2. The petitioner claims to be the registered owner of Pulsar Motorcycle bearing No.TS 29 H 3150. The said vehicle was seized in C.O.R.No.8 of 2024 which was registered for an offence punishable under Section 7 (A) read with 8 (c) of the Telangana State Prohibition Act, 1995.

3. The contention of the learned counsel for the petitioner is that Section 45 of the Telangana Excise Act, 1968 (for short "the Act") 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 Pulsar Motorcycle bearing No.TS 29 H 3150 on petitioner furnishing fixed deposit receipt as proof of opening fixed deposit account for an amount of Rs.25,000/-.

(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/-A.V.S.PRASAD
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Department of Prohibition and Excise, The State of Telangana, Secretariat building, Hyderabad T.S
2. The Deputy Commissioner of Prohibition And Excise, Nalgonda, Nalgonda District.
3. The Station House Officer, Prohibition and Excise, Excise Station Huzumagar, Suryapet District.
4. One CC to SRI K. VENKATARAMANAIAH, Advocate [OPUC]
5. Two CCs to GP FOR PROHIBITION & EXCISE, High Court for the State of Telangana. [OUT]
6. Two CD Copies

BN
GJP

Handwritten signature

HIGH COURT

DATED:06/02/2024

ORDER

WP.No.3051 of 2024



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

⑨
8/2/24
JNV