

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No.10197 of 2021

ORDER:-

This Writ Petition is filed under Article 226 of the Constitution of India, questioning the action of the respondents in not releasing the vehicle i.e. tractor and trailer bearing registration Nos.AP 26 AG 8763 and AP 26 AG 8764 in connection with crime No.47 of 2021 of Epurupalem Police Station even after paying the penalty for the compoundable offences and consequently direct the respondents to release the said tractor and trailer.

2. The case of the petitioner is that he is the owner of the subject tractor and trailer which has been seized by respondent No.3 on 15.03.2021 in connection with crime No.47 of 2021 registered for the offences punishable under Sections 379 of IPC and Section 21(2) of MMDR Act. When the petitioner approached respondent No.3 for release of vehicle, he asked the petitioner to pay penalty amount of Rs.10,000/- to the Mines and Mineral Department. Even after payment of the said amount on 30.03.2021 his vehicle was not released. He was advised to get release order from appropriate Court. In pursuance of the same, he approached Additional Judicial First Class Magistrate, Chirala for release of the vehicle but the same was returned with an endorsement "this petition shall be filed before proper authority in MMDR Act and PDPP Act cases, property also not produced by Police in this Court". Thereafter the petitioner approached respondent No.2 to release the vehicle but the authorities replied that respondent No.3 ordered to receive penalty and he has no

instructions with regard to release the subject vehicle. Hence, this writ petition.

3. Heard Sri M. Leela Prasad, learned counsel for the petitioner, learned Government Pleader for Mines and Geology appearing for respondent Nos.1 and 2 and learned Government Pleader for Home appearing for respondent No.3.

4. Learned counsel for the petitioners submits that as per clause 16 of G.O.Ms.No.71 dated 04.09.2019 the vehicles involved in illegal excavation shall be penalized and respondent No.3 has no authority to detain the vehicles. He further submits that though the petitioner paid the penalty as directed, the respondents are not releasing the subject tractor and trailer. Learned counsel further submits that in identical matters, this Court has disposed of writ petition No.12555 of 2020 by issuing directions to the respondents therein to impose penalty in terms of clause 16 of G.O.Ms.No.71 dated 04.09.2019 and to release the seized vehicle after payment of penalty. Hence, requests to pass similar order.

5. Learned Government Pleaders appearing for the respondents fairly conceded with the submissions made by the learned counsel for the petitioners.

6. Taking into consideration, the submissions made by both sides this writ petition is disposed of directing the petitioner to submit an appropriate application before the concerned respondent authorities within ten days from the date of receipt of a copy of this order and on such application the respondent authorities shall release the subject tractor and trailer as per

clause 16 of G.O.Ms.No.71 dated 04.09.2019 within one week thereon. No costs.

Consequently, miscellaneous applications pending, if any, shall stand closed.

Date : 18.05.2021
IKN

LALITHA KANNEGANTI, J

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

(Disposed of)

WRIT PETITION No.10197 of 2021

18.05.2021

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