

THE HONOURABLE SRI JUSTICE BATTU DEVANAND**Writ Petition No.17652 of 2022****ORDER:-**

This Writ Petition has been filed by the Petitioner seeking the following relief:

“declare the action of the 5th respondent in seizing the Ashok Leyand Goods Vehicle bearing No. KA 34 C 1398 belonging to the petitioner under Panchanama dated 16.11.2021 as illegal, arbitrary and without any authority of law or jurisdiction and contrary to the provisions of the Essential Commodities Act, 1955, and the A.P. State Targeted Public Distribution System (Control) Order, 2018, besides violation of petitioner’s right guaranteed under Article 14, 19 (1) (g) and 21 of the Constitution of India and consequently, set aside the same and direct the respondents not to take any action pursuance to the illegal seizure.”

2. Heard Sri Harish Kumar Rasineni, learned counsel for the petitioner, and the learned Government Pleader

for Home and the learned Government Pleader for Civil Supplies and perused the record.

3. The case of the petitioner is that the petitioner is the owner of the vehicle i.e., Ashok Leyland Mini Goods Vehicle bearing No. KA 34 C 1398 and the said vehicle was seized by the 5th respondent, who is the Head Constable, D. Hirehal Police Station, Anantapuram District, under Panchanama, dated 16.11.2021, without any authority under law, alleging that PDS rice is being transported illegally in the said vehicle.

4. It is the further case of the petitioner that as per the provisions of the Control Order, 2018, it is only the Officer not below the rank of Sub Inspector is authorized to exercise the power to inspect and seize the stocks or vehicle and as such, the 5th respondent/Head Constable has no power to conduct inspection and seize the vehicle and stocks. Therefore, basing on such Panchanama, seizure of vehicle and registering of Crime is completely

illegal and without jurisdiction. Challenging the inaction of the 5th respondent in seizing the vehicle under Police Proceedings dated 16.11.2021, the present Writ Petition has been filed by the Petitioner.

5. As per the Order dated 05.07.2022 of this Court, the Director General of Police filed Affidavit contending that on 16.11.2021 as the SI of Police, D.Hirehal PS was on ZPTC/MPTC Election duty at Muradi Village, the Assistant Sub Inspector of Police, D. Hirehal PS was attending the regular duties in the Police Station. The Head Constable-214, who was conducting vehicle checking on National Highway noticed that one Ashok Leyland Goods Vehicle, which was loaded with 55 rice bags, and took the said vehicle along with stock to the Police Station and submitted a Special Report and basing on the said Special Report, the Assistant Sub Inspector of Police registered a case in Cr.No.313 of 2021 under Section 420 and Section 7 (1) of E.C.Act and drafted

Police Proceedings and seized the said vehicle. Thereafter, the Assistant Sub Inspector produced the said rice and vehicle before the Tahsildar-cum-Mandal Executive Magistrate as contemplated under Section 6 of the E.C. Act. Thereafter, the SI of Police took up the investigation and filed charge sheet before the Judicial First Class Magistrate, Rayadurgam. He further contends that he issued a Circular vide Rc.No.4791/C4/2022, dated 07.07.2022, to follow the Judgments passed by the Hon'ble High Court in W.P.No.16240/2019, 17827/2019, 9535/2021 and 9969 of 2021. Therefore, he prays to close the Writ Petition.

6. The contention of the learned counsel for the petitioner is that the vehicle of the petitioner is seized by the Head Constable without any authority under law, which is illegal. In the affidavit filed by the Director General of Police, it is admitted that the Head Constable-214 seized the vehicle and the Assistant Sub Inspector of

Police registered a case. In view of clear admission in the affidavit filed by the D.G.P., stating that the vehicle of the petitioner was seized by the Head Constable, in the light of the orders passed by this Court earlier in W.P.Nos.9535 of 2021, 16240 of 2019, 17827 of 2019, 19071 of 2019 and 19041 of 2019, wherein it is held that the Head Constable is not authorized to seize the stock or the vehicle in terms of the Control Order, 2018, and it is the Officers not below the rank of Sub Inspector of Police within their respective jurisdiction are authorized to exercise such powers. In view of the clear admission in the affidavit filed by the Director General of Police that the vehicle of the petitioner was seized by the Head Constable, this Court is left with no other option except to declare that the seizure of the vehicle of the petitioner is illegal and made without any authority of law.

7. For the above mentioned reasons and the law declared in ***Sri Vigneswara Traders, Komerapudi***

Village v Circle Inspector of Police, Porumamilla Police Station, YSR Kadapa¹, that the search and seizure made by the respondent No.5 on 16.11.2021 is declared as illegal, arbitrary and without authority of law and consequently, the same is set aside.

8. In the result, the Writ Petition is allowed directing the respondents to release the Ashok Leyland Goods Vehicle bearing No. KA 34 C 1398 forthwith.

9. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this case shall stand closed.

JUSTICE BATTU DEVANAND

Date : .10.2022

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¹ 2013 (4) ALD 241

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