

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION No.14632 of 2011**

**ORDER:**

The action of the second respondent in detaining the petitioner's vehicle, on the ground that it was carrying weight beyond permissible limits, is under challenge in this writ petition as being illegal and arbitrary.

While several contentions including on the jurisdiction of the authority to seize the vehicle are urged in this writ petition, I consider it wholly inappropriate to examine them at this stage as the petitioner has an effective remedy under the Motor Vehicles Act, 1988 (the Act), and the Rules made thereunder to approach the first respondent seeking release of the vehicle in question.

Section 207(1) of the Act enables any Police Officer or other persons authorized by the State Government to seize and detain the vehicle if the provisions mentioned therein are contravened. The competent authority is also enabled to take or cause to be taken any steps for the temporary safe custody of the vehicle concerned. Under Section 207(2) of the Act where a motor vehicle has been seized and detained under sub section (1) the owner or person incharge of motor vehicle may apply to the transport authority, or any Officer authorized in this behalf by the State Government, together with the relevant documents seeking release of the vehicle and such authority or Officer may, after verification of such documents, by order release the vehicle subject to such conditions as the authority or officer may deem fit to impose.

Rule 448B of the Andhra Pradesh Motor Vehicles Rules,

1989 (the Rules, for brevity), relates to release of seized motor vehicles. Under sub rule (1) thereof an application for release of the motor vehicle, seized under sub section (1) of Section 207 of the Act, shall be in the form of a memorandum in duplicate with relevant documents duly enclosing a fee of Rs.25/-. Sub rule (2) enables the Secretary, Regional Transport Authority, of the region to entertain the application for release of the vehicle seized and detained by his subordinate Officers.

In **Saleem Tours and Travels v Joint Transport Commissioner and Secretary, RTA, Hyd**<sup>[1]</sup> a Division Bench of this Court observed that, ordinarily, the competent authority should dispose of the application filed under Section 207(2) of the Act read with Rule 448B of the Rules within three days from the date of receipt of the application and that the authority can impose reasonable conditions for release of the vehicle including furnishing of cash security of reasonable amount which should be adjusted later on towards compounding fee or tax or penalty, if any, demanded. This Court further observed that the authority should normally direct the release of the vehicle, subject to imposition of reasonable conditions, within three days from the date of receipt of the application.

Following the judgment of the Division Bench in **Saleem Tours and Travels**<sup>1</sup>, the first respondent shall examine the application filed by the petitioner herein for release of the vehicle in question, impose such reasonable conditions as he may consider appropriate and, subject to fulfillment of the conditions, consider directing release of the vehicle. It is open to the petitioner to file an application under Section 207(2) of the Act read with Rule 448B of the Rules in case no such application has been

filed till date. It is made clear that the first respondent shall pass orders on the application made by the petitioner under Section 207(2) of the Act read with Rule 448B of the Rules not later than three days from the date of receipt of the application.

The writ petition stands disposed of accordingly. No costs.

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**RAMESH RANGANATHAN,J**

Dt:31.05.2011

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[\[1\]](#) 2000 (4) ALD 501 (DB)