

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

FRIDAY, THE TWENTY NINTH DAY OF JANUARY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 1841 OF 2021

Between:

Ajay Tiwari, S/o. Deenath Tiwari, Aged about 40 years, Occ. Owner of vehicle
R/o. H.No 6/6, Raajeev Gruhakalpa, Shivarampally, Laxmiguda, Rajendranagar
Mandal, R. R. District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Consumer Affairs, Food and Civil Supplies Department, Secretariat Hyderabad.
2. The Assistant Civil Supplies officer, cum Deputy Tahsildar, Uppal circle, Medchal Malkajgiri District, Telangana State.
3. The Station House Officer, Uppal Police Station, Rachakonda 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, to declare the action of the respondents herein in not passing orders directing the 3rd respondent to release the Ashok Ley Land auto vehicle bearing Registration No TS 07 UJ 8152, MI cell phone and an amount of Rs 3,800/- seized in pursuant to the Panchanama dtd 22/1/2021, in spite of several requests, as being illegal and arbitrary and to grant.

IA NO: 1 OF 2021

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 pass orders directing the respondent No.2 herein to pass orders directing the 3rd respondent herein to release the Ashok Ley Land vehicle auto bearing Registration No TS 07 UJ 8152, MI cell phone and an amount of Rs 3,800/- and 8 quintals of 20 rice bags seized in pursuant to the panchanama dated 22/1/2021 pending disposal of the main Writ Petition.

Counsel for the Petitioner : SRI E. RAMESH CHANDRA GOUD

Counsel for the Respondent Nos.1 & 2: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.3: AGP FOR HOME

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P,NAVEEN RAO

WRIT PETITION No.1841 of 2021

ORDER:

Heard. With the consent of learned counsel for the petitioner, learned Government Pleader for Civil Supplies appearing for respondents 1 and 2 and learned Assistant Government Pleader for Home appearing for respondent No.3, the writ petition is disposed of at the admission stage.

2. Petitioner claim to be the owner of Ashok Leyland Auto vehicle bearing No.TS 07 UJ 8152, which was manufactured in the year 2020. Aggrieved by the action of the respondents in seizing the vehicle bearing No.TS 07 UJ 8152 in connection with Crime No.81 of 2021 on the ground that the vehicle was used for illegal transportation of PDS rice, the present writ petition is filed.

3. As fairly submitted by learned Counsel for petitioner and learned Government Pleader, enquiry under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act) and prosecution in the crime is yet to commence.

4. Enquiry under Section 6-A of the Act and investigation/prosecution into the crime registered against petitioner may take considerable time. Meanwhile, as the vehicle is kept in the openyard exposed to sun and other weather conditions and kept idle, road worthiness of the vehicle may be severely affected. At the same time, as the vehicle is involved in a crime and violated statutory regulations, it can not be handed over to the owner even before proceedings are concluded. Such course may bolster the offender to commit further offences and is not in public interest. In the circumstances, the Court has to balance

respective claims and take due note of public interest. In the given facts Court is inclined to opt a middle path.

5. In view of the same and having regard to the facts and circumstances of the case, without expressing any opinion on merits, the writ petition is disposed of directing the 3rd respondent-Station House Officer, Uppal Police Station/the Joint Collector, Ranga Reddy District, as the case may be to release the vehicle in issue, subject to following conditions :

(a) The petitioner shall furnish fixed deposit receipt as proof of opening of fixed deposit account for an amount of ₹.75,000/- (Rupees Seventy Five Thousand only)/or bank guarantee for the equal sum; (b) he shall furnish an undertaking in writing that he will not alienate or change the physical features of the vehicle; (c) he shall produce the vehicle whenever required; (d) he shall furnish the copies of R.C. Book of the vehicle and driving licence of the driver; (e) the 3rd respondent/the Joint Collector, Ranga Reddy District shall write to the RTA authorities not to entertain any application to transfer the vehicle in question on any third party's name without clearance from the Civil Supplies Department; (f) the release of the vehicle shall be subject to the orders to be passed in the enquiry under Section 6-A of the Act/prosecution of Crime No.81 of 2021.

6. With reference to alleged seizure of mobile phone and cash, liberty is granted to the petitioner to avail appropriate remedies as provided by the Code of Criminal Procedure. Pending miscellaneous petitions, if any, shall stand closed.

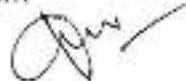
SD/-M.MANJULA
ASSISTANT REGISTRAR
SECTION OFFICER

To,
1. The Principal Secretary, Consumer Affairs, Food and Civil Supplies Department, State of Telangana, Secretariat Hyderabad.
2. The Assistant Civil Supplies officer, cum Deputy Tahsildar, Uppal circle, Medchal Malkajgiri District, Telangana State.

Control

3. The Station House Officer, Uppal Police Station, Rachakonda District.
4. One CC to Sri E. Ramesh Chandra Goud, Advocate [OPUC]
5. Two CCs to GP for Civil Supplies, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CCs to GP for Home, High Court for the State of Telangana at Hyderabad (OUT)
7. Two CD Copies

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A handwritten signature in black ink, appearing to read "R. R. Goud".

HIGH COURT

DATED:29/01/2021

ORDER

WP.No.1841 of 2021



**DISPOSING OF THE WP
WITHOUT COSTS**

10 copies
Dt:06/02/2021