



**HIGH COURT OF ANDHRA PRADESH**  
WEDNESDAY ,THE SEVENTEENTH DAY OF FEBRUARY  
TWO THOUSAND AND TWENTY ONE

**PRESENT**

**HONOURABLE THE CHIEF JUSTICE ARUP KUMAR GOSWAMI**  
**THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR**  
**WRIT APPEAL NO: 4 OF 2021**

**Between:**

1. NAGANATH S/o Krishnappa, Hindu  
Aged about 45yrs  
Occ Driver, R/o Mallikarjun Wadi Rajeshwar, Basava Kalyan (TQ)  
Rajeswar, Bidar District, Karnataka- 585 331 Owner of the Lorry bearing  
Regn.No. KA 56 3073

**...PETITIONER(S)**

**AND:**

1. State of Andhra Pradesh Rep. by its Principle Secretary to Government  
Home Department, A.P Secetariat, Velagapudi Amarvathi, Guntur District,  
A.P - 522 238
2. The Station House Officer Santhamaguluru Police Sattion, Prakasam  
District,Andhra Pradesh
3. The Assistant Disrect Of Mines and Geology Ongole, Prakasam District,  
Andhra Pradesh
4. The Motor Vehicle Inspector Darsi, Prakasam District, Andhra Pradesh

**...RESPONDENTS**

**Counsel for the Petitioner(s): VENKATESWARLU GADIPUDI**

**Counsel for the Respondents: GP FOR HOME**

**The Court made the following: ORDER**



**HIGH COURT OF ANDHRA PRADESH : AMARAVATI**

**HON'BLE Mr. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE  
&  
HON'BLE Mr.JUSTICE C.PRAVEEN KUMAR**

**Writ Appeal No.4 of 2021**

*(Through video conferencing)*

Naganath, S/o Krishnappa, Hindu,  
Aged about 45 years, Occ : Driver,  
R/o Mallikarjun Wadi Rajeshwar,  
Basava Kalyan (TQ) Rajeswar,  
Bidar District, Karnataka – 585 331,  
Owner of the Lorry bearing Regn.No.KA 56 3073 .. Appellant

Versus

The State of Andhra Pradesh,  
Rep. by its Principal Secretary  
to Government, Home Department,  
A.P. Secretariat, Velagapudi, Amaravathi,  
Guntur District, A.P. – 522 238 & 3 Others .. Respondents

Counsel for the Appellant : Mr.Ghanta Rama Rao,  
Mr.Venkateswarlu  
Gadipudi

Counsel for the Respondent Nos.1,2&4 : G.P. for Home

Counsel for the Respondent No.3 : G.P. for Mines & Geology

Date of Hearing : 03.02.2021

Date of pronouncement : .02.2021

**JUDGMENT**

(per C.Praveen Kumar, J)

1. Aggrieved by the order dated 01-12-2020 in W.P.No.22076 of 2020, wherein the learned Single Judge ordered release of the vehicle, subject to complying with the terms and conditions stipulated in Clause



(iii) of Sub-rule 3(ii) of Rule 26 of Andhra Pradesh Minor Mineral Concession Rules, 1966 (APMMC Rules, 1966), the present Writ Appeal came to be filed.

2. The synoptic outline of the facts of the case, which led to present Writ Appeal under Clause 15 of Letters Patent, are as under :

The appellant/writ petitioner is said to be the owner of a lorry bearing registration No.KA 56 3073, which was being used for transporting goods and material. On 04.11.2020, while the vehicle was proceeding from Gurijepalli Village, the staff of the 2<sup>nd</sup> respondent intercepted the vehicle and seized the same on the ground that the writ appellant – writ petitioner was transporting granite slabs without any valid permit. Questioning the action of the respondent No.2 in seizing the vehicle, Writ Petition came to be filed. Relying upon the orders passed by this Court in W.P.No.9277 of 2020, dated 27.05.2020 and W.P.No.10023 of 2020, dated 18.06.2020, the learned Single Judge ordered release of the vehicle, subject to compliance of Clause (iii) of Sub-rule 3(ii) of Rule 26 of APMMC Rules, 1966. Assailing the same, the present Writ Appeal is filed.

3. Sri Ghanta Rama Rao, learned Senior Counsel appearing for the appellant/writ petitioner, would submit that the conditions of compliance of Rule 26 of APMMC Rules, 1966 does not arise in a case of this nature. According to him, the appellant is only seeking release of the vehicle and not the goods contained therein. He would submit that payment of penalty equal to market value of the mineral along with seigniorage fee prevalent at that time would arise only if the appellant is seeking release of the material. He took us through the said Rule in support of his



argument. He would further submit that the respondent has no power to seize the vehicle as well, but, however, did not press for the same at this stage. In support of his plea, he relied upon the orders passed by this Court in W.P.No.20538 of 2020, W.P.No.20532 of 2020, W.P.No.8090 of 2019 and W.P.No.39939 of 2018.

4. On the other hand, learned Government Pleader for Mines & Geology would submit that a reading of the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 would clearly indicate that the authorities have power to seize the vehicle. He also relied upon the judgments of this court in support of his contention. He further submits that in a number of cases this Court ordered release of the vehicle, subject to compliance of Rule 26 of APMMC Rules, 1966.

5. From a reading of the averments in the affidavit filed in support of the writ petition and the material placed before the Court it is apparent that the vehicle was intercepted when it was transporting granite. It also appears from the record that relevant permissions were not produced by the driver at that time. Keeping these circumstances in the background we proceed to deal with the matter.

6. Clause (iii) of Sub-Rule 3(ii) of Rule 26 of APMMC Rules, 1966 reads thus :

"If the Driver or person-in-charge of the vehicle fails to produce a valid permit issued by the concerned Assistant Director of Mines and Geology or an officer authorized by the Director of Mines and Geology, the officer in-charge of the check post or barrier or during the interception of the movement of the vehicle, may require the Driver or the owner or person in-charge of the vehicle to pay penalty equal to market value of the mineral along with seigniorage fee prevalent at that time."



7. Having regard to the usage of the word, 'driver' or 'person-in-charge of the vehicle', the Government Pleader tried to contend that even for release of the vehicle, the owner or the person claiming release of the vehicle has to pay penalty equal to the market value of the mineral along with seigniorage fee prevalent at that time. On a reading of the above Rule, there is nothing to indicate, the vehicle cannot be released, unless the penalty and seigniorage fee is paid. All that the rule states is that the penalty equal to market value of the mineral seized along with seigniorage fee prevalent at that time can be ordered to be paid at the time of interception of the vehicle, if driver or person-in-charge of the vehicle fails to produce a valid permit. But, nowhere the Rule postulates that the vehicle cannot be released, unless the same is paid.

8. On the other hand, a comprehensive reading of the said Rule show that the said provision was mainly directed against the mineral that was being transported in the vehicle without any valid permit. Hence, the argument of the learned Government Pleader has no legs to stand.

9. At this stage, learned Government Pleader would submit that certain stringent conditions may be imposed if the vehicle is to be released, as there is every possibility of the said vehicle being used again for transporting mineral illegally.

10. In ***Surenderbhai Ambalal Desai v. State of Gujarat***<sup>1</sup>, the Apex Court has laid down that in case of vehicles seized during investigation, they should not be allowed to deteriorate by being kept unused and unattended in the premises of the Police Stations. The vehicle has to be entrusted to the interim custody of the appellant/petitioner, subject to

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<sup>1</sup> (2002) 10 SCC 283



appropriate conditions, namely, by taking appropriate bond and guarantee as well as security for return of the said vehicle, if required at any point of time.

11. Keeping in view the guidelines laid down by the Apex Court in the judgment referred to above and having regard to the statement made by the learned Government Pleader that there is every possibility of the vehicle being used again for transporting mineral illegally, we feel it appropriate to grant interim custody of the vehicle, pending adjudication of the proceedings before the concerned authority/court, on the following terms and conditions :

- (i) The person, in whose custody the vehicle is, shall get the value of the vehicle assessed by the Motor Vehicle Inspector concerned in the presence of the owner of the vehicle/appellant/petitioner and on fixing of the value of the vehicle by the Motor Vehicle Inspector, the appellant/petitioner shall furnish either bank guarantee or immovable property security to the value of the vehicle as assessed by the Motor Vehicle Inspector and also execute a personal bond to the satisfaction of the authority concerned;
- (ii) The interim custody of the vehicle shall be given in favour of the appellant/petitioner, subject to producing proof in support of the ownership of the vehicle;
- (iii) The appellant/petitioner shall give an undertaking to produce the vehicle as and when required either by the authority concerned or Court or the Investigating Agency and also give an undertaking that he will not alienate, encumber or alter the physical features of the vehicle.



12. With the above directions, the Writ Appeal is disposed of. No costs.

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

**ARUP KUMAR GOSWAMI, CJ**

skmr

**C. PRAVEEN KUMAR, J**