



**HIGH COURT OF ANDHRA PRADESH**

FRIDAY ,THE FIRST DAY OF MAY

TWO THOUSAND AND TWENTY

**PRESENT**

**THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**

**WRIT PETITION NO: 411 OF 2020**

**Between:**

1. J.C.Uma Reddy, W/o J.C.Prabhakar Reddy, Aged about 60 years,  
R/o D.No.15-1526, Sanjeeva Nagar,  
Tadipatri, Ananthapuram District, AR
2. J.C.Nikhila Reddy, W/o J.C.Asmith Reddy, Aged about 30 years,  
R/o D.No.15-1526, Sanjeeva Nagar,  
Tadipatri, Ananthapuram District, AP.

**...PETITIONER(S)**

**AND:**

1. The State of Andhra Pradesh, Rep by its Principal Secretary, Government of AP, Transport, Roads and Buildings Department, AP Secretariat, Velagapudi, Guntur District, Andhra Pradesh.
3. Transport Commissioner, Andhra Pradesh, NTR Administrative, PN Bus Station, Vijayawada, Krishna District, AP.
4. The Joint Transport Commissioner and Secretary, STA, Vijayawada, Krishna District, AR
5. Deputy Transport Commissioner , Anantapur, Ananthapuram District, AP.
6. Motor Vehicles Inspector , Chittoor, Chittoor district.
7. Motor Vehicles Inspector, Proddutur, Kadapa District.
8. Motor Vehicles Inspector, Adoni, Kurnool district

**...RESPONDENTS**

**Counsel for the Petitioner(s): N BHARAT BABU**

**Counsel for the Respondents: THE ADVOCATE GENERAL (AP)**

**The Court made the following: ORDER**

**HON'BLE SRI JUSTICE U. DURGA PRASAD RAO****Writ Petition No.411 of 2020****ORDER:**

The petitioners seek a writ of mandamus

*(a) declaring the action of respondents in seizing the seven public carriage vehicles of the petitioners and detaining without releasing them within three days in terms of Rule 448-B of the A.P.MV Rules as illegal, arbitrary and against the provisions of the Motor Vehicles Act, 1988 (for short, 'the MV Act) & the Andhra Pradesh Motor Vehicle Rules, 1989 (for short, 'the A.P. MV Rules');*

*(b) to direct the respondents not to resort to seize the vehicles of the petitioners, plying on the interstate routes henceforth, unless grave irregularities exists in terms of Sections 3, 4, 39 and 66 of the MV Act.*

*(c) declaring that the petitioners are entitled for the damages for the loss of business and reputation as determined by this Court and direct the respondents to pay the said amount;*

*(d) to direct the respondents to refund the tax paid for the seized vehicles from the date of seizure till release of the vehicles.*

2. The petitioners' case is that their family has been carrying on business in transport since several decades and as of now they possessed 31 State carriage permits and 20 contract carriage permits. On 30.12.2019 and 31.12.2019, the respondent authorities have, on flimsy and untenable grounds, seized seven of their vehicles. The



particulars of the vehicles owned by petitioners 1 & 2 are mentioned in **Table-I** and the vehicle wise violations as alleged in the check reports are shown in **Table-II** as follows:

**Table-I :**

| S. No. | Vehicle Number | Owner             | Route                  | Permit No. and validity    | Tax paid upto | Pollution obtained or not | Driver and validity of DL      |
|--------|----------------|-------------------|------------------------|----------------------------|---------------|---------------------------|--------------------------------|
| 1      | AP02TH4220     | J.C.Uma Reddy     | Anantapur to Bangalore | 17/61B valid upto 18.12.21 | 31.3.2020     | Obtained                  | Girish DL valid upto 26.3.2020 |
| 2      | AP02TH4219     | J.C.Uma Reddy     | Anantapur to Bangalore | 17/61 18.12.21             | 31.3.2020     | -do-                      | Anjaneya 2024                  |
| 3      | AP02TE2322     | J.C.Uma Reddy     | Anantapur to Bangalore | 27/50 8.5.2020             | 31.3.2020     | -do-                      | Hameed K 14.12.2020            |
| 4      | AP02TH4218     | J.C.Uma Reddy     | Anantapur to Bangalore | 11/61A 4.11.22             | 31.3.2020     | -do-                      | Jaya Naik 31.6.2024            |
| 5      | AP02TA5373     | J.C.Uma Reddy     | Anantapur to Hiriyuru  | CS- AP/53/50(B) 15.11.2020 | 31.3.2020     | -do-                      | Suresh Babu 29.03.2021         |
| 6      | AP39X7699      | J.C.Nikhila Reddy | Anantapur to Hiriyuru  | 53/50A 31.12.2023          | 31.3.2020     | -do-                      | N.Mallikarjuna 2.4.2020        |
| 7      | AP02TA3654     | J.C.Nikhila Reddy | Gooty to Bellary       | 4/65 8.3.2023              | 31.3.2020     | -do-                      | K.Srinivasulu 8.10.2023        |

**Table-II**

| S. No. | Vehicle Number | Seized on  | Seized by               | Seized on route          | Violations shown   |
|--------|----------------|------------|-------------------------|--------------------------|--|
| 1      | AP02TH4220     | 30.12.2019 | RTA, Chittoor           | AH43                     | 1. Without permit/violation  |
| 2      | AP02TH4219     | 31.12.2019 | RTA, Chittoor           | Office of Tahsildar      | 1. Without permit/violation  |
| 3      | AP02TE2322     | 30.12.2019 | RTA, Proddutur          | M/s. Siflon Drug factory | 1. Seating alteration<br>2. Without permit/violation<br>3. Speed Limiting device not fixed/not working<br>4. No Reflectors |
| 4      | AP02TH4218     | 30.12.2019 | RTA, Chittoor           | AH43                     | 1. Without permit/violation  |
| 5      | AP02TA5373     | 30.12.2019 | RTA, Chittoor           | 515763                   | 1. Seating alteration<br>2. Without permit/violation<br>3. Without PUC   |
| 6      | AP39X7699      | 30.12.2019 | RTA, Chittoor           | Bellary road             | 1. Without Permit/violation  |
| 7      | AP02TA3654     | 30.12.2019 | RTA, Unit Office, Adoni | 515801                   | 1. Not producing DL and RC/without document<br>2. Seating alteration<br>3. Without permit/violation                        |

3. The further case of the petitioners is that the allegation that the vehicles are not covered by permit is false. All the vehicles possess valid permits issued by the transport authorities and their particulars are mentioned in **Table-I**. The motor vehicles tax for all the vehicles was also paid upto 31.03.2020. Thus, the alleged contraventions are invented only for the purpose of seizure of vehicles. In spite of the request made by the driver/conductor to look into the copy of the permit, the checking officials bluntly refused and threatened them



with dire consequences. In fact, all the particulars of vehicles were computerized which could be retrieved by the checking officials even without the necessity of producing hard copies. Despite, the checking officials have intentionally issued check reports showing some flimsy contraventions. Except permit violation, other violations are not a ground to seize and detain the vehicles under Section 207 of the MV Act.

4. The petitioners would further allege that earlier also the respondents with a malafide intention and for extraneous political reasons, conducted namesake inspections and seized 21 vehicles on petty grounds and detained them for two months. Aggrieved, the petitioners filed W.P.No.18650/2019 and by an order dated 21.12.2019, this Court while allowing the writ petition, declared the action of respondents in detaining and seizing 21 vehicles of the petitioners as illegal and arbitrary and directed the petitioners to approach the authorities, who detained and seized the vehicles, and produce copies of the permits and tax challans evidencing payment of tax and on such production of documents pertaining to vehicles on 23.12.2019 and 24.12.2019, directed respondents to release the vehicles on 24.12.2019 by 5.00 P.M. The grievance of the petitioners is that though the respondents have released the vehicles, within a week thereafter, again seized and detained 7 out of 21 vehicles covered by earlier writ petition on the very same flimsy grounds. Thereby the petitioners' constitutional right to conduct business and



earn livelihood guaranteed under Article 19 has been flagrantly violated besides causing mental agony.

Hence, the writ petition.

5. The 4<sup>th</sup> respondent filed counter opposing the writ petition and *inter alia* contending thus:

(a) The writ petition is liable to be dismissed for joinder of different and distinct causes of action claimed by different persons for different vehicles.

(b) The petitioners committed flagrant violation of MV Act and A.P. MV Rules and conditions of the permits issued to them endangering public life and acted against the interest of the passengers. It is the obligation of a licensee to display or produce all the necessary documents when required by the authorities. The admission of the petitioners that they were unable to produce the hard copies of permits at the time of inspection of the vehicles alone is sufficient to seize and detain the vehicles.

(c) The following are the vehicle wise violations:

| S. No. | Vehicle Number | Nature of violation  |
|--------|----------------|--|
| 1      | AP02TH4220     | Violation of Permit conditions in contravention of Section 84(e), 91 of M.V.Act, 1988 r/w Sec. 13 of A.P.M.T.W.Act, 1961   |
| 2      | AP02TH4219     | No Fare chart exhibited in the vehicle. Thus violation of Permit conditions.   |
| 3      | AP02TE2322     | Unauthorized seating alteration from 32 in all to 35 in all in contravention of Sec. 52 of M.V.Act, 1988 in contravention of Sec. 52 of M.V.Act, 1988 causing unsafe and endangering to the travelling public and also causing huge loss to the Government revenue by way of evading taxes for the additional seats;<br>No Reflectors causing un-safe to other road users;<br>Speed Limit devise not fixed;<br>Crew working for more than the permitted of 8 hours in contravention of Section 84(e) of M.V. Act, 1988 r/w Sec.13 of A.P. Motor Transport Workers Act, 1961. |



|   |            |   |
|---|------------|---|
| 4 | AP02TH4218 | Crew working for more than the permitted of 8 hours in contravention of Section 84(e) of M.V.Act, 1988 r/w Sec.13 of A.P. Motor Transport Workers Act, 1961   |
| 5 | AP02TA5373 | Unauthorized seating alteration from 37 in all to 39 in all in contravention of Sec. 52 of M.V.Act, 1988 causing un-safe and endangering to the travelling public and also causing huge loss to the Government revenue by way of evading taxes for the additional seats.  |
| 6 | AP39X7699  | Plying in contravention of Section 115 of the Motor Vehicles Act, 1988  |
| 7 | AP02TA3654 | Unauthorized seating alteration from 36 in all to 47 in all in contravention of Sec. 52 of M.V.Act, 1988 causing un-safe and endangering to the travelling public violating the Registration & Permit Conditions and also causing huge loss to the Government revenue by way of evading taxes for the additional seats. Non-adherence of schedule of timings, fare table not exhibited. |

(i) The vehicle bearing registration No.AP02 TH 4220 was seized at Marur Toll Plaza between Penugonda and Anantapur and found that it was proceeding from Bangalore to Anantapuram. During vehicle check it was found that the driver violated Sections 84E & 91 of the MV Act read with Section 13 of Motor Transport Workers Act, 1961 (for short, **‘the MTW Act**) which provides for limited hours of work for drivers. There was only one driver who started from Anantapur to Bangalore and immediately returned from Bangalore to Anantapur without any rest beyond 8 hours which is a grave danger to public safety and hence, the vehicle was seized.

(ii) The vehicle bearing registration No.AP02 TH 4219 was seized at the office of Tahsildar for the offence under Section 192-A of the MV Act for not exhibiting the fare table.

(iii) The vehicle bearing registration No.AP02 TE 2322 was seized near M/s. Siflon Drug Factory while it was proceeding from Anantapuram to Bellary. The bus exceeded its registered seating capacity and further, the driver was driving



the vehicle continuously without a spare driver and thus contravened Section 84E & Section 91 of the MV Act read with Section 13 of the MTW Act. The vehicle was also not fitted with speed limiting device and no reflectors were installed.

(iv) The vehicle bearing registration No.AP02 TH 4218 was seized while it was moving from Sira to Anantapur for contravention of Section 84E & Section 91 of the MV Act read with Section 13 of the MTW Act.

(v) The vehicle bearing registration No.AP02 TA 5373 was seized while it was proceeding from Chillakeri to Anantapur. It was found that the vehicle was not travelling in the allotted route. Further, the seating capacity of vehicle was increased without obtaining necessary permission. The staff failed to show necessary documents including PUC certificate.

(vi) The vehicle bearing registration No.AP39 X 7699 was seized at Bellary road while it was proceeding from Hiriyyur to Anantapur. It was found there was a route deviation by leaving a major Mandal Beluguppa.

(vii) The vehicle bearing registration No.AP02 TA 3654 was seized near Anjini Weigh Bridge while the vehicle was proceeding from Bellary to Guntakal. In the routine checks the driver failed to produce driving license, registration certificate etc. and there was no spare driver allotted to vehicle. Hence, contraventions under Sections 84E & Section 91 of the MV Act



read with Section 13 of the MTW Act were noted. The registration certificate of the vehicle expired long back and the vehicle was fitted with 47 seats instead of 36 seats.

(ix) Soon after the applications were filed by the petitioners, the authorities on 02.01.2020 itself issued Memo No.813/C1/2019 showing the violations committed by them and directed to approach the Court as charge sheets were already filed by following due process, but the petitioners failed to approach the concerned jurisdictional Magistrates. The petitioners have intentionally suppressed these facts before this Court. The alleged loss of livelihood when compared with public safety, cannot be a ground to release vehicles as it is the legitimate duty of the respondents to sincerely follow the provisions of law. Except inclining to follow the due procedure, the authorities have no intention to cause damage to the business of the petitioners. After seizure of the vehicles, alternative arrangements were made to the passengers to avoid inconvenience.

(d) The petitioners have been habitually contravening the provisions of the MV Act, A.P. MV Rules and MTW Act despite several warnings and seizure of vehicles. The petitioners premeditated to violate the law and also made arrangements to escape as soon as their vehicles are caught/seized which is manifest from the demand drafts obtained by them on 05.11.2019 i.e., in advance in the name of SRTA,





Anantapuram and applied to release the vehicles which were seized on 30.12.2019 and 31.12.2019. It is a clear indication that the petitioners are accustomed to violate the public safety and road safety. In the last one year, several busses of the petitioners have committed grievous violations causing threat to public safety and they also caused 5 to 6 deaths and grievous injuries to innocent passengers. One such act committed by one of the vehicle drivers of the petitioners was on 04.09.2019 when the bus bearing No.AP 02 TA 5769 dashed one TVS XL motorcycle and caused death to three persons. The violations caused by the petitioners, though claimed to be small, but displaced many families and individuals and created huge impact on public lives. The respondents thus prayed to dismiss the writ petition.

6. The petitioners filed reply affidavit. While denying the counter allegations, the main contention of the petitioners is that the initiation of criminal action has nothing to do with the seizure of vehicles and there is no power to confiscate the vehicles under the MV Act and A.P. MV Rules and detention of vehicles for more than three days is illegal, impermissible and against the provisions of the MV Act.

7. Heard Sri Gangaiah Naidu, learned Senior Counsel, representing on behalf of Sri N.Bharat Babu, learned counsel on record and Sri Kasa Jaganmohan Reddy, Special Government Pleader representing on behalf of respondents.

8. The main plank of argument of learned counsel for petitioners is that there is a variation between the violations mentioned in the



vehicle check reports issued to the petitioners and variations mentioned in the counter of the respondents. Even if all the variations are taken into consideration, out of them, except the violation of the permit, none other violation is covered under Section 207 of the MV Act to empower the respondent authorities to seize and detain the vehicles. He would strenuously argue that it is only when the contravention is in respect of Sections 3 or 4 or 39 or 66(1), that the authorities are empowered to seize and detain the vehicles in the prescribed manner but not in respect of every other contravention. He would submit that of the several contraventions mentioned against each of the 7 vehicles, the permit violation alone is covered under Section 66(1) of the MV Act and none other violation, even if accepted to be true, would come under Section 207. Whether the contraventions are true or not can be decided by the concerned Criminal Courts wherein the respondents said to have filed charge sheets against the petitioners and their staff. The petitioners are ready to face the prosecution and they would vindicate their defence in a Court of law. Therefore, he would argue, the other contraventions cannot be shown as a ground to seize and detain the vehicles and such a power is not vested with the respondent authorities.

(a) He would further argue, so far as the allegation of violation of the permit is concerned, all the 7 vehicles are having valid permits as on the date of seizure and the permit validity of each vehicle is detailed in **Table-I**. In that view, the authorities are not justified to



seize the vehicles on that ground also. He would further argue that in fact sometime ago, when the subject vehicles and some other vehicles were illegally seized by the authorities, the petitioners have filed W.P.No.18650/2019 and a learned single Judge of this Court in his order dated 21.12.2019 has, so far as the present 7 vehicles are concerned, held that those vehicles were covered with valid permit and hence, seizure and detention was not legally valid and ultimately directed the authorities to release all the vehicles on production of copies of permits and tax challans and on collection of compounding fee, and accordingly all the vehicles, including 7 vehicles pertaining to this writ petition, were released by the respondent authorities on 24.12.2019. However, due to political reasons as the petitioners belong to a different political party, their vehicles have been again seized on the same flimsy grounds. Learned counsel would submit that the petitioners filed applications under Rule 448-B of the A.P. M.V. Rules for release of vehicles, but the authorities, on the untenable ground that charge sheets were filed against the petitioners, refused to receive applications and release the vehicles. He would vehemently argue that the authorities, who seized and detained the vehicles under Section 207(1) of the MV Act shall, on the application of vehicle operator under Section 207(2), release the vehicle on reasonable conditions and if the authorities refused to release the vehicle within a reasonable time, say within three days, the owner of the vehicle has a right to resort to remedy under Article 226 of the Constitution. On this legal aspect he placed reliance on **Saleem**



**Tours and Travels v. Joint Transport Commissioner and Secretary, RTA, Hyderabad<sup>1</sup> and Meerja Hameedullah Baig v. Regional Transport Authority, South Zone, Hyderabad<sup>2</sup>.** Learned counsel would submit that the respondent authorities gave a go-by to all the aforesaid guidelines. He finally argued that a single writ petition is maintainable where the causes of actions and respondents are similar and individual court fee is paid. He thus prayed to allow the writ petition.

9. Per contra, learned Special Government Pleader would firstly argue that the writ petition is liable to be dismissed in limine for, the cause of action for the petitioners 1 & 2 is different and their vehicles are different and therefore, they are not entitled to file single writ petition.

(a) Secondly, on the merits of the writ petition he would argue that the petitioners have grossly violated the provisions of the MV Act and A.P. MV Rules and the permits were misused and resorted to grievous violations endangering public life. Apart from permit violations, there are other violations such as not employing spare driver, overloading the vehicle, not displaying the fare chart etc. Therefore, the authorities were constrained to seize the vehicles and book cases and file charge sheets under relevant provisions before the concerned Magistrates. In that view, the petition is not maintainable.

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<sup>1</sup> 2000 LawSuit (AP) 34

<sup>2</sup> 2001 LawSuit (AP) 374



(b) Thirdly, he would argue that the petitioners ought to have filed application under Section 207(2) of the MV Act for release of the vehicles before concerned authority, instead of writ petition. On this aspect, he relied upon the decision of the High Court for the State of Telangana in **Raju Katravath v. The State of Telangana**<sup>3</sup>. He thus prayed to dismiss the writ petition.

**10.** The point for consideration is whether there are merits in the writ petition to allow?

**11.** The facts undisputed are that the petitioners are the owners of 7 public carriages as mentioned in Table-I and the respondent authorities have seized them on 30.12.2019 and 31.12.2019 under Section 207 of the MV Act for several violations mentioned in Table-II which is being impugned in the instant writ petition. It is not the power conferred under Section 207 is under challenge but it is mainly contended that except the allegation of the permit violation, none other violations fit into the scheme of Section 207 to empower the authorities to seize the vehicle. Even in respect of the permit violation, it is vehemently argued, all the 7 buses were duly covered with permits and no deviations as alleged were committed. Even assuming there were such deviations, still the authorities ought to have entertained their applications filed under Rule 448-B of the A.P. MV Rules and release orders ought to have been issued within three days.

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<sup>3</sup> MANU/TL/0356/2019



12. It is in the above backdrop, it is apposite to extract Section 207 of the MV Act. It reads thus:

**207. Power to detain vehicles used without certificate of registration permit, etc.—**

(1) Any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of section 3 or section 4 or section 39 or without the permit required by sub-section (1) of section 66 or in contravention or any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, in the prescribed manner and for this purpose take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle: Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used in contravention of section 3 or section 4 or without the permit required by sub-section (1) of section 66 he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgment in respect thereof.

(2) Where a motor vehicle has been seized and detained under sub-section (1), the owner or person incharge of the motor vehicle may apply to the transport authority or any officer authorised in this behalf by the State Government together with the relevant documents for the 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.

13. A scrutiny of the above provision would show, power to seize and detain a motor vehicle is tracable to Section 207. A police officer or any other authorized person is empowered to seize the vehicle if he has reason to believe that the same has been or is being used in contravention of provision of Section 3 (**driving license**) or Section 4 (**age limit to secure driving license**) or Section 39 (**necessity for registration**) or without the permit required under sub-section (1) of Section 66 (**necessary for permits**) or any contravention of the conditions of such permit relating to the route on which or the purpose for which the vehicle may be used. Seizure is based on prima facie assessment of violation of the Act. On seizure of the vehicle, proceedings would be launched against the driver and/or owner of the



vehicle under the relevant provisions of MV Act. Section 200 vests discretion with the competent authority to compound the offence even after prosecution was launched.

(a) The proviso to sub-section (1) of Section 207 is important. It says that seizure of vehicle is not mandatory in every instance. When the officer has reason to believe that the motor vehicle was used in contravention of Section 3 or Section 4 or Section 66(1), he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgment in respect thereof.

(b) Then sub-section (2) of Section 207 lays down that when a vehicle is seized and detained under sub-section (1), the owner or person incharge of the vehicle may apply to the transport authority or any officer authorised in this behalf by the State Government together with the relevant documents for the release of vehicle and such authority or officer may after verification of such documents, by order release the vehicle subject to such conditions which he may deem fit to impose.

**14.** It is also pertinent to note that the procedure for seizure, detention and release of the vehicles is detailed in Rule 448-A and 448-B of the A.P. MV Rules.

**15.** The necessity and objective behind seizure; the time within which the competent authority shall consider and decide the application filed under Section 207 r/w Rule 448-B of the AP MV



Rules for release of vehicle etc have come for scrutiny in **Saleem Tours & Travels's** case (supra 1). A Division Bench of High Court of A.P. has observed that the power of seizure shall not be taken to be a punitive measure though there is certain element of deterrence in it. Such discretion is expected to be exercised judiciously. The seizure cannot be an end in itself, but it should be a means to achieve the end i.e., to facilitate the finalization of enquiry and implementation of the order. The Division Bench, among other guidelines, held the vehicle seized under Section 207 on the ground of contravention of conditions of permit should not be detained for unduly long time and on application filed by the vehicle operator the vehicle ought to be released with expedition subject to stipulation of conditions. If the competent authority refuses to release the vehicle within a reasonable time, **say within three days after application is made in this behalf**, or imposes onerous conditions, remedy under Article 226 is available to the aggrieved persons.

**16.** In **Meerja Hameedullah Baig's** case (supra 2), another Division Bench of the High Court of A.P. while holding that Rule 448-A and 448-B of MV Rules are not ultravires to Section 207(2) of MV Act, observed that in MV Act there does not exist a provision for confiscation of vehicles. In the lines of **Saleem's** decision (supra 1), it was also held that the authorities shall dispose of the application filed for release of the vehicle within a period of three days and in





case applications are to be rejected, sufficient and cogent reasons therefore must be stated.

With the above jurisprudence, it has to be seen whether the seizure and detention of the subject vehicles is legally valid or not.

**17. Vehicle bearing Regn. No: AP 02TH 4220:**

(i) As per vehicle check report dated 30.12.2019, which is filed along with the material papers, the only violation shown is thus:

**Without permit/violation - Rs.5000/-**

The above violation is concerned, according to the petitioners the vehicle is covered with permit number 17/61B, which is valid up to 18.12.2021, (vide Table – I) which is not disputed in the counter. This aspect was discussed also in W.P.No.18650 of 2019. Hence, the seizure and detention under said ground is not legally valid.

(ii) Be that it may, as per the counter affidavit and the charge sheet filed in STC No. \_\_\_/2019 in the court of Judicial Magistrate of First Class, Anantapuramu, the other violations are under Section 84(e) and Section 91 of MV Act r/w Section 13 of MTW Act, 1961. Section 84 relates to general conditions attaching to all permits. Sub-section (e) lays down that the provisions of the MV Act limiting the hours of work of drivers are to be observed in connection with any vehicle or vehicles to which the permit relates. Then, Section 91 of MV Act relates to the restriction of hours of work of drivers. It says that the hours of work of any person engaged for operating a transport vehicle



shall be such as provided in the Motor Transport Workers Act, 1961. Thus cumulatively, the violation alleged under Section 84(e), Section 91 and Section 13 of MTW Act is to the effect that the driver was put to over dose of work than prescribed in the permit and there was no spare driver. The question then is whether this violation, even assumed to be true, comes under Section 207(1).

(iii) The above is the general condition of permit and not relating to the route on which or the area in which or the purpose for which the vehicle may be used as stated in Section 207(1). Therefore, violation of the working hours of the driver cannot be treated as the violation or contravention as envisaged in Section 207(1). In similar circumstances, while observing that carrying passengers excess in number than allowed by permit does not form as contravention to authorize police officer to seize and detain the vehicle under Section 207(1), the Apex Court in *State of Maharashtra and others v. Nanded – Parbhani Z.L.B.M.V. Operator Sangh*<sup>4</sup> has observed thus:

*“The intention of the legislature is required to be gathered from the language used and, therefore, a construction, which requires for its support with additional substitution of words or which results in rejection of words as meaningless has to be avoided. Bearing in mind, the aforesaid principles of construction of statute and on examining the provisions of Section 207 of the Act, which has been quoted earlier, we have no doubt in our mind that the police officer would be authorised to detain a vehicle, if he has reason to believe*

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<sup>4</sup> AIR 2000 SC 725 = MANU/SC/0034/2000



*that the vehicle has been or is being used in contravention of Section 3 or Section 4 or Section 39 or without the permit required under sub-section (1) of Section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used. In the case in hand, we are not concerned with the contravention of Section 3 or Section 4 or Section 39 or sub-section (1) of Section 66 and we are only concerned with the question of contravention of the condition of permit. Reading the provisions as it is, the conclusion is irresistible that the condition of permit relating to the route on which or the area in which or the purpose for which the vehicle could be used if contravened, would only authorise the police officer to detain the vehicle and not each and every condition of permit on being violated or contravened, the police officer would be entitled to detain the vehicle. According to the learned counsel, appearing for the State of Maharashtra, the expression "purpose for which the vehicle may be used" could be construed to mean that when the vehicle is found to be carrying passengers more than the number prescribed in the permit, the purpose of user is otherwise. We are unable to accede to this contention as in our opinion, the purpose would only refer to a contingency when a vehicle having a permit of stage carriage is used as a contract carriage or vice versa or where a vehicle having a permit for stage carriage or contract carriage is used as a goods vehicle and vice versa. But carrying passengers more than the number specified in the permit will not be a violation of the purpose for which the permit is granted. If the legislature really wanted to confer power of detention on the police officer for violation of any*



*condition of the permit, then there would not have been the necessity for adding the expression “relating to the route on which or the area in which or the purpose for which the vehicle may be used”. The user of the aforesaid expression cannot be ignored nor can it be said to be a tautology”.* (Emphasis supplied)

Thus, on the same analogy it can be said that violation of the working hours is not a contravention of permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, as envisaged in Section 207(1). Such a violation may be dealt with under relevant provision but the vehicle cannot be seized and detained under Section 207(1) of MV Act. Therefore, the seizure of the vehicle under Section 207(1) of MV Act is held illegal.

**18. Vehicle bearing Regn. No: AP 02TH 4219:**

(i) As per vehicle check report dated 30.12.2019, which is filed along with the material papers, the only violation shown is thus:

**Without permit/violation - Rs.5000/-**

The above violation is concerned, according to the petitioners the vehicle is covered with permit number 17/61, which is valid up to 18.12.2021, (vide Table – I) which is not controverted in the counter. This aspect was discussed also in W.P.No.18650 of 2019. Hence, the seizure and detention under said ground is not legally valid.

(ii) Be that it may, as per the counter affidavit and the charge sheet filed in STC No. \_\_\_/2019 in the court of Judicial Magistrate of First



Class, Anantapuramu, the other violations is to the effect that no fare chart was exhibited in the vehicle which is in contravention of Rule 185(d)(iv) of AP MV Rules. Going by the decision of Apex Court in *State of Maharashtra (supra 4)*, the above violation even if true, will not come under Section 207(1). The authorities may proceed against the concerned under relevant provisions but cannot seize and detain the vehicle under Section 207(1) and hence, the seizure is *per se* illegal.

**19. Vehicle bearing Regn. No: AP 02TE 2322:**

As per vehicle check report dated 30.12.2019, which is filed along with the material papers and as per counter affidavit, the violations are as follows:

|   |   |                  |
|---|---|------------------|
| <b>1. Seating alteration</b>                              | - | <b>Rs.5000/-</b> |
| <b>2. Without permit/violation</b>                        | - | <b>Rs.5000/-</b> |
| <b>3. Speed Limiting devise<br/>not fixed/Not working</b> | - | <b>Rs.2000/-</b> |
| <b>4. No Reflectors</b>                                   | - | <b>Rs.1000/-</b> |

Violation No.2 is concerned, according to the petitioners the vehicle is covered with permit number 27/50, which is valid up to 08.05.2020, (vide Table – I) which is not controverted in the counter. The other violations will not fall under Section 207(1) of MV Act as per the decision of the Apex Court in *State of Maharashtra (supra 4)*. Hence, the seizure and detention is illegal.

**20. Vehicle bearing Regn. No: AP 02TH 4218:**

(i) As per vehicle check report dated 30.12.2019, which is filed along with the material papers, the only violation shown is thus:

**Without permit/violation - Rs.5000/-**

The above violation is concerned, according to the petitioners the vehicle is covered with permit number 11/61A, which is valid up to 04.11.2022 (vide Table – I) which is not disputed in the counter. This aspect was discussed also in W.P.No.18650 of 2019. Hence, the seizure and detention under said ground is not legally valid.

(ii) Be that it may, as per the counter affidavit and the charge sheet filed in STC No. \_\_\_/2019 in the court of Judicial Magistrate of First Class, Anantapuramu, the other violations are under Section 84(e) and Section 91 of MV Act r/w Section 13 of MTW Act, 1961. In view of the decision in *State of Maharastra (supra 4)*, the above violation does not fall within Section 207(1) of MV Act. Such a violation may be dealt with under relevant provision but the vehicle cannot be seized and detained under Section 207(1) of MV Act. Therefore, the seizure of the vehicle under Section 207(1) of MV Act is held illegal.

**21. Vehicle bearing Regn. No: AP 02TA 5373:**

As per vehicle check report dated 30.12.2019, which is filed along with the material papers and as per counter affidavit, the violations are as follows:

**1. Seating alteration - Rs.5000/-**



**2. Without permit/violation - Rs.5000/-**

**3. Without PUC - Rs.2000/-**

Violation No.2 is concerned, according to the petitioners the vehicle is covered with permit number CS-AP/53/50(B), which is valid up to 15.11.2020, (vide Table – I) which is not controverted in the counter. The other violations will not fall under Section 207(1) of MV Act as per the decision of the Apex Court in **State of Maharastra (supra 4)**. Hence, the seizure and detention is illegal.

**22. Vehicle bearing Regn. No: AP 39X 7699:**

As per vehicle check report dated 30.12.2019, which is filed along with the material papers and counter affidavit and the charge sheet filed in STC.No. \_\_\_/2020 before Judicial Magistrate of First Class, Kalyanadurgam, the alleged violation is that while the vehicle was proceeding from Hiriyur to Anantapur, there was a route deviation by leaving a major Mandal – Beluguppa. The said violation squarely comes under Section 207(1). Hence, the seizure and detention is held valid.

**23. Vehicle bearing Regn. No: AP 02TA 3654:**

(i) As per vehicle check report dated 30.12.2019, which is filed along with the material papers and as per counter affidavit, the violations are as follows:

**1. Non production of DL and RC/**

**without document - Rs.100/-**

**2. Seating alteration - Rs.5000/-**



**3. Without permit/violation - Rs.5000/-**

(ii) Violation No.3 is concerned, according to the petitioners the vehicle is covered with permit number 4/65, which is valid up to 08.03.2023 (vide Table – I) which is not controverted in the counter.

(iii) Violation No.2 is concerned, it will not fall under Section 207(1) of MV Act as per the decision of the Apex Court in **State of Maharashtra (supra 4)**. So, seizure and detention is not permissible for violation 2, but permissible for the violation No.1.

24. Then coming to the arguments raised by the learned Special Government Pleader, it is contended that a single writ petition is not maintainable by the petitioners when their causes of action are different and vehicles are different. Refuting the same, it is argued by Sri Gangaiah Naidu that though the petitioners are different and their vehicles are different, however, common question of law is involved for both of them as they raised a common point that seizure and detention of their respective vehicles is illegal as Section 207 of MV Act has no application. He placed reliance on *Annam Adinarayana and another v. State of Andhra Pradesh*<sup>5</sup>, wherein it was held as follows:

*“The legal position may now be summarised. An application under Article 226 of the Constitution of India is a proceeding in a Court of Civil jurisdiction. The provisions of Orders 1 and 2 can be invoked as far as*

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<sup>5</sup> 1957 ALT 915





*they can be made applicable to the proceedings in a writ application under Article 226. Ordinarily, two or more persons cannot join in a single petition to enforce separate claims. But where the right to relief arises from the same act or transaction and there is a common question of law or fact or where, though the right to relief claimed does not arise from the same act or transaction, the petitioners are jointly interested in the causes of action, one petition is maintainable at their instance.”*

The above principle was also approved in ***The Management of Singareni v. The Industrial Tribunal and others.***<sup>6</sup>

The above being the legal position, a perusal of A.P. High Court Writ Proceedings Rules, 1977 would show that as per Rule 4A—two or more persons raising common questions of law or persons having common cause of action may join in a single writ petition paying single set of court fees. In that view and as in the instant case, common question of law is raised by both the petitioners, in my considered view single writ petition is maintainable.

**25.** The next contention raised by learned Special Government Pleader is that the petitioners cannot maintain writ petition without taking statutory recourse under Section 207(2) of MV Act r/w Rule 448-B of A.P. MV Rules. Reliance is placed on **Raju Katravath case (supra 3)**. This argument does not hold water firstly for the reason that though it is trite law that when alternative and efficacious remedy is available, generally constitutional court will not entertain a

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<sup>6</sup> (1975) ILLJ 470 AP



writ, however, when there is an apparent illegality in a proceedings the court will do. In the instant case, in respect of most of the vehicles the seizure and detention was held *per se* illegal. Hence, the writ petition is maintainable. Even other wise, both the petitioners have filed applications under Rule 448-B of A.P. MV Rules for release of the seized vehicles and the Regional Transport Officer, DTCs Office, Anantapuramu, in his proceedings in Memo No.813/C1/2019, dated 02.01.2020, while referring to their application dated 30.12.2019 informed them that for the irregularities noted in the vehicle check reports, prosecution has been launched under Rule 448(A) of A.P.MV Rules and charge sheets have been filed and numbers are awaited. Except the aforesaid intimation, no orders have been passed. In that view, the argument of learned Special Government Pleader cannot be countenanced and the cited decision has no application.

**26.** Thus on a conspectus, the seizure and detention are illegal so far as vehicles AP 02TH 4220, AP 02TH 4219, AP 02TE 2322, AP 02TH 4218 and AP 02TA 5373 are concerned, but they are valid in respect of the vehicles AP 39X 7699 and AP 02TA 3654. In substance, the alleged contravention of lack of permit is unsustainable in respect of all the above vehicles. However, concerned proceedings in respect of other contraventions are maintainable and the petitioners have to vindicate their stand before concerned court or authority.



27. So far as the claim of the petitioners for damages and for refund of the tax paid is concerned, no order can be passed in that regard since no plausible and cogent evidence is placed on record.

28. In the result, this writ petition is disposed of and ordered as follows:

(a) The seizure and detention of the vehicles bearing Nos.AP 02TH 4220, AP 02TH 4219, AP 02TE 2322, AP 02TH 4218 and AP 02TA 5373 under Section 207(1) of MV Act by the authorities is held illegal and the 1<sup>st</sup> petitioner is directed to approach the concerned authorities and file a fresh application under Section 207(2) of MV Act r/w 448-B of AP M.V.Rules by enclosing necessary documents within one week from the date of this order for release of her vehicles, in which case, the respondent authorities shall release the aforesaid vehicles within three days from the date of receipt of the application.

(b) The seizure and detention of the vehicles bearing Nos. AP 39X 7699 and AP 02TA 3654 under Section 207(1) of MV Act by the authorities is in accordance with law; however, the 2<sup>nd</sup> petitioner is at liberty to file an application under Section 207(2) of MV Act r/w 448-B of AP M.V.Rules by enclosing necessary documents within one week from the date of this order for release of his vehicles, in which case, the respondent authorities shall pass an appropriate order in accordance with law within three days from the date of receipt of the application and communicate the same to the petitioner.



As a sequel, miscellaneous petitions pending for consideration if any in this case, shall stand closed. No costs.

01.05.2020  
MVA/SS/MS

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**U.DURGA PRASAD RAO, J**