

(2024) 05 TEL CK 0005

High Court For The State Of Telangana:: At Hyderabad**Case No:** Writ Petition No. 13324 Of 2024

Shaik Subhani

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision: May 9, 2024**Acts Referred:**

- Telangana State Prohibition Act, 1995 - Section 7A, 8C
- Telangana State Excise Act, 1968 - Section 34(e), 45, 46, 46C

Hon'ble Judges: C.V. Bhaskar Reddy, J**Bench:** Single Bench**Final Decision:** Disposed Of

Judgement

1. This writ petition is filed to issue writ of mandamus declaring the action of respondent No.2 in not releasing the petitioner's vehicle i.e., Auto Rickshaw bearing No.AP 39 X 1187, which was seized in P.C.O.R.No.22 of 2024, dated 04.04.2024, as illegal and arbitrary and for other reliefs.

2. The petitioner claims to be the registered owner of Auto Rickshaw bearing No.AP 39 X 1187. The said vehicle was seized in P.C.O.R.No.22 of 2024 which was registered for an offence punishable under Section 7 (A) read with 8 (c) of the Telangana State Prohibition Act, 1995 and Section 34 (e) of the Telangana State Excise Act, 1968 (for short "the Act") .

3. The contention of the learned counsel for the petitioner is that the subject vehicle is lying in the premises of respondent No.3 since 23.03.2024 and is exposed to vagaries of nature and the value of the vehicle would diminish. Learned counsel further submits that Section 45 of the Act, 1968 provides that whenever an offence has been committed, which is punishable under the Act the things mentioned in Section 45 of the Act are liable for confiscation. Section 46 of the Act mandates the authority competent to seize the items mentioned in Section 45 of the Act to produce before the Deputy Commissioner of Prohibition and Excise. On production

of the seized property, the Deputy Commissioner is required to conduct proceedings for confiscation and if he is satisfied that an offence is committed under the Act, he may order for confiscation of the property seized. The Deputy Commissioner is also authorised to conduct public auction or dispose of the property so confiscated. Against the order of the confiscation, an appeal would lie under Section 46-C of the Act. Learned counsel for the petitioner further submitted that this Court has passed several orders directing the respondents to release the seized vehicles subject to the petitioner depositing the value of the vehicles and also furnishing an undertaking that pending confiscation proceedings, the vehicle shall not be alienated.

4. Having regard to the consistent view taken by this Court with regard to release of vehicles seized in Excise Offences, the petitioner is also entitled to relief of directing respondents to release his vehicle subject to certain terms and conditions.

5. Accordingly, the writ petition is disposed of, with the following directions:-

(i) Respondents are directed to release the Auto Rickshaw bearing No.AP 39 X 1187 subject to the petitioner producing fixed deposit receipt for an amount of Rs.20,000/-.

(ii) The petitioner shall not encash the fixed deposit or create lien or mortgage on the fixed deposits till the conclusion of confiscation proceedings.

(iii) The petitioner shall produce original R.C. Book of the subject vehicle at the time of release of the vehicle.

(iv) The petitioner shall furnish an undertaking that he will not transfer or alienate the vehicle to third party in any manner and will maintain the vehicle in the same good roadworthy condition without changing its major parts and features.

(v) The petitioner shall also give an undertaking that he will produce the vehicle as and when directed by the concerned Court or competent authority.

There shall be no order as to costs. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.