

(SHOW CAUSE NOTICE BEFORE ADMISSION)
IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE EIGHTEENTH DAY OF MARCH TWO THOUSAND AND TWENTY
FOUR

:PRESENT:
THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 6957 OF 2024

Between:

N. Gopal Krishna, S/o Ramaswamy, R/o H.No. 1-181, Indira Gandhi Road,
Near GHMC Office, Patancheru Municipality Patancheru, Sanga Reddy Dist,
Telangana State. (Owner)

Petitioner

AND

1. The State of Telanagana, Rep by Prl Secretary Revenge Excise Secretariat
Telangana, Hyderabad.
2. The Commissioner of Proh and Excise, Telangana State, Abkari Bhavan,
Nampally, Hyderabad.
3. The Deputy Commissioner of Proh and Excise, Hyderabad Division, Abkari
Bhavan, Nampally, Hyderabad.
4. The Station House Officer, Charminar Proh and Excise Station, Malakpet,
Hyderabad.

Respondents

WHEREAS the Petitioner above named through his Advocate
SRI MD MURTUZA ALI FARUQUI presented this 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 set aside and quash the order of
confiscation passed by the Deputy Commissioner of Proh, and Excise in his file Cr
No.C4/167/2023-1 dated 28-06-2023 and the confirmation/modification of the same
by the Commissioner of the Proh and Excise in file Cr.No 236112023/CPE/Ex/D1
dated 02.03.2024 and pass necessary orders to release the vehicle car bearing no.
TS15FA0004, to the petitioner the real owner, as illegal, arbitrary, irrational,
unconstitutional and against the Principles of Natural Justice and to set aside the
order of release of vehicle on permanent basis on payment of fine;

AND WHEREAS the High Court upon perusing the petition and affidavit filed
herein and upon hearing the arguments of Sri MD MURTUZA ALI FARUQUI,
Advocate for the Petitioner and Asst. GP for Proh. And Excise, who took notice on
behalf of the Respondents, directed issue of notice to the Respondents herein to
show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Prl Secretary Revenge Excise, State of Telangana, Secretariat
Telangana, Hyderabad.

2. The Commissioner of Proh and Excise, Telangana State, Abkari Bhavan, Nampally, Hyderabad.
3. The Deputy Commissioner of Proh and Excise, Hyderabad Division, Abkari Bhavan, Nampally, Hyderabad.
4. The Station House Officer, Charminar Proh and Excise Station, Malakpet, Hyderabad.

are directed to show cause on or before 11-06-2024 to which date the case stands posted as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted.

IA NO: 1 OF 2024

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 suspend/stay the operation/execution of order of confiscation passed by the Deputy Commissioner, Hyderabad in his the Cr No.C4/167/2023-1 dated 28-06-2023 and the modification order passed by the Commissioner of Excise in his file Cr.No. 2361/2023/CPE/Ex/D1 dated 02.03.2024, and pass orders for release of the vehicle Maruti Suzuki Dezire of bearing no. TS15FA0004, in favour of the petitioner, pending disposal of WP No. 6957 of 2024, on the file of the High Court.

The Court made the following:

ORDER:

Notice before admission.

Learned Assistant Government Pleader for Prohibition and Excise takes notice for the respondents and seeks time to file counter-affidavit.

The petitioner is the owner of the Car bearing No.TS 15 F 0004 and the said vehicle was seized in C.O.R.No.4 of 2023, dated 13.03.2023, registered for the offences punishable under Section 34 (1) of the Telangana State Excise Act, 1968 (for short "the Act"). It is the further case of the petitioner that respondent No.4 filed a petition under Section 46 of the Act before respondent No.3, which was dismissed *vide* orders, dated 28.06.2023 in Cr.No.C4/167/2023-1 and the vehicle was directed to be confiscated. Thereafter, the petitioner filed an appeal before respondent No.2 and by an order, dated 02.3.2024 in CR.No.2361/ 2023/CPE/E/D1, respondent No.2 had modified the confiscation order and directed to release the vehicle subject to the petitioner paying fine of Rs.2,37,500/-. It is the further case of the petitioner that after completing the investigation in C.O.R.No.4 of 2023, a charge sheet has been filed, which was taken cognizance as C.C.No.6179 of 2023 on the file of the Chief Metropolitan Magistrate, Nampally, Hyderabad and the accused therein were acquitted *vide* judgment, dated 14.12.2023. The grievance of the petitioner is that respondent No.2 without taking into consideration the acquittal of the accused in C.C.No.6179 of 2023, has dismissed the appeal.

In view of the above, pending adjudication of the writ petition, there shall be interim direction to the respondents to release the Car bearing No.TS

15 FA 0004 subject to the petitioner furnishing bank guarantee of Rs.75,000/-. The petitioner is further directed to produce original R.C. Book of the vehicle at the time of release of the vehicle and he shall also 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.

List on 11.06.2024 for filing counter-affidavit.

SD/- K. SREERAMA MURTHY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Prl Secretary Revenue Excise, State of Telangana, Secretariat Telangana, Hyderabad.
2. The Commissioner of Proh and Excise, Telangana State, Abkari Bhavan, Nampally, Hyderabad.
3. The Deputy Commissioner of Proh and Excise, Hyderabad Division, Abkari Bhavan, Nampally, Hyderabad.
4. The Station House Officer, Charminar Proh and Excise Station, Malakpet, Hyderabad. (1 to 4 by RPAD- along with a copy of petition and affidavit)
5. One CC to SRI MD MURTUZA ALI FARUQUI Advocate [OPUC]
6. Two CCs to GP FOR PROHIBITION & EXCISE, High Court at Hyderabad. [OUT]
7. One spare copy

HIGH COURT

CVBR,J

DATED:18/03/2024

List on 11.06.2024 for filing counter-affidavit

NOTICE BEFORE ADMISSION



WP.No.6957 of 2024

DIRECTION