

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 8488 of 2020**

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KIRAN CHOUBEY W/O SHRI NARENDRA CHOUBEY
Versus
STATE OF GUJARAT & 1 other(s)

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Appearance:

MR ABHISHEKKUMAR C MALVI(9941) for the Petitioner(s) No. 1
for the Respondent(s) No. 2ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP(99) for the
Respondent(s) No. 1

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CORAM:**HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**
and
HONOURABLE MR. JUSTICE J.B.PARDIWALA

Date : 24/07/2020

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. By this writ application under Article 226 of the Constitution of India filed in public interest, the writ applicant claiming to be a social worker and a resident of Ahmedabad has prayed for the following reliefs:-

“(A) To issue a Writ of Mandamus and/or Writ of Certiorari and/or any other appropriate writ, order or direction, to release the conveyance/truck being truck no. MP-09-GF-9070 on payment of fine in lieu of confiscation of conveyance as per MOV-11 on such terms and conditions which may be deemed fit and proper to this Hon’ble Court and in the interest of the petitioner.

(B) Pending admission, hearing and final disposal of this petition, to direct the respondents to release the conveyance/truck being no. MP-09-GF-9070 on payment of fine in lieu of confiscation of conveyance as per MOV-11 on such terms and conditions which may be deemed fit and proper to this Hon'ble Court and in the interest of the petitioner.

(C) To pass any other and further orders as may be deemed fit and proper.

(D) TO provide for the costs of this petition.”

2. The writ applicant claims to be the owner of the truck bearing No.MP-09-GF-9070. The truck came to be seized by the respondent No.2 under the provisions of GST Act 2017. It appears that final order in Form MOV-11 has been passed. Thus, the truck has been ordered to be confiscated under the provisions of Section 130 of the Act 2017.
3. As a final order of confiscation has been passed and the same being an appealable order, we relegate the writ applicant to file a statutory appeal as provided under Section 107 of the Act. Along with the appeal, it shall be open for the writ applicant to prefer a Miscellaneous Application under section 67(6) of the Act 2017 for provisional release of the vehicle pending the final disposal of the appeal.
4. We may only say that if any such application under

section 67(6) of the Act is filed by the writ applicant, then the authority concerned shall look into the same at the earliest and pass an appropriate order in accordance with law. With the above, this writ application stands disposed of.

5. We clarify that we have otherwise not expressed any opinion on the merits of the petition.

