

ITEM NO.13

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.38/2022

ALL INDIA TRANSPORTERS WELFARE ASSOCIATION & ANR. Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION; and, IA No.9178/2022-EXEMPTION FROM FILING O.T.)

Date : 26-09-2022 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s) Mr. Anil Goel, Adv.
Mr. Aditya Goel, Adv.
Ms. Deeplaxmi Subhash Matwankar , AOR

For Respondent(s) Mr. Ravindra Sadanand Chingale, AOR

UPON hearing the counsel the Court made the following
O R D E R

This petition filed under Article 32 of the Constitution of India filed by All India Transporters Welfare Association seeks following principal relief:

"a. Issue a Writ/Order/Direction in the nature of mandamus directing the Respondents No.1, 2, 5 to 36 to apply the suggestions of Chapter V of the report given by the Committee formed by the Ld. Chief Justice of Delhi i.e. Annexure P-7 in all cases relating to the properties seized by the police and a copy of the final order passed by this Hon'ble Court may be forwarded to the Director Generals of Police of all the State Governments and the Union Territories and the Registrar General of all the High Courts of India for onward transmission to all subordinate courts of India to ensure its compliance."

The grievance raised in this petition is that at times, certain acts are committed by the Police which are not clearly consistent with the mandate of Section 102 of the Code of Criminal Procedure, 1973 ("the Code" for short) and seized properties keep languishing in the custody of the Police for fairly long time causing great inconvenience to the transporters and their customers.

Reliance has been placed on a decision of this Court in *M.T. Enrica Lexis & Another v. Doramma & Others*, Civil Appeal No.4167 of 2012 dated 02.05.2012, and particularly paragraph 13 of the decision which was to the following effect:

"13. The police officer in course of investigation can seize any property under Section 102 if such property is alleged to be stolen or is suspected to be stolen or is the object of the crime under investigation or has direct link with the commission of offence for which the police officer is investigating into. A property not suspected of commission of the offence which is being investigated into by the police officer cannot be seized. Under Section 102 of the Code, the police officer can seize such property which is covered by Section 102(1) and no other."

The scope of Section 102 of the Code has thus been dealt with by this Court and needs no further elaboration. If there be any individual case, wherever, according to the concerned person, there is non-compliance of the requirements of Section 102 of the Code, the concerned person will always be at liberty to file appropriate proceedings in a manner known to law.

The representation so made by any individual concerned person or entity shall appropriately be considered at the earliest in every given case.

The grievance raised in the petition is not something which must be dealt with in proceedings under Article 32 of the Constitution of India.

With these observations, the writ petition is dismissed.

Pending applications, if any, also stand disposed of.

(MUKESH NASA)
AR-cum-PS

(MATHEW ABRAHAM)
BRANCH OFFICER