

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.39284 of 2015

ORDER:

The grievance of the petitioner, the President of the Toddy Tappers Co-operative Society, Khammam, is with regard to the demand notice dated 27.08.2015 issued by the Deputy Commissioner of Prohibition & Excise, Khammam, whereby he was called upon to pay Rs.78,98,956/- towards the rental amounts due. As the said demand notice was issued in the name of the petitioner, the writ petition has been filed by him in his individual capacity.

As Sri Amarnath Goud Thodupunuri, learned counsel for the petitioner, contended that his client was not given an opportunity of hearing prior to the issuance of the impugned demand notice, the learned Assistant Government Pleader for Excise was asked to verify this aspect and if due opportunity of participation had been afforded to the petitioner, she was asked to produce the record in proof thereof.

Today, the learned Assistant Government Pleader for Excise fairly conceded before the Court that earlier W.P.No.11502 of 2015 had been filed by the Toddy Tappers Co-operative Society, Khammam, represented by one M.Mahesh Babu, who claimed to be its President and the said writ petition was disposed of by this Court on 22.04.2015 directing the excise authorities to give due opportunity of hearing to him and thereafter pass fresh orders.

According to the learned Assistant Government Pleader, notice was then given to the said M.Mahesh Babu, but it was found by the excise authorities that he had no authority to represent the Toddy Tappers Co-operative Society, Khammam. Having found so, the excise authorities went on to determine the issue and mulcted the petitioner herein with the liability under the impugned demand notice. Admittedly, no opportunity of hearing was afforded to the petitioner herein before passing of the same. As the impugned demand notice had the consequence of visiting the liability to pay a huge sum of money, it was incumbent upon the excise authorities to adhere to the principles of natural justice and give due opportunity of hearing to the person affected before passing the order.

As it is now admitted by the excise authorities that no such opportunity was given to the petitioner, the impugned demand notice is unsustainable. However, as this is the second round of litigation, this Court is of the opinion that the interests of justice would be adequately served by treating the impugned demand notice as a show cause notice issued to the petitioner in the capacity of the President of the Toddy Tappers Co-operative Society, Khammam. The petitioner shall respond to the said notice treating it as a show cause notice and submit his explanation thereto. Thereupon, the Deputy Commissioner of Prohibition & Excise, Khammam, shall afford an opportunity of hearing to the petitioner and then take appropriate action in the matter in accordance with law. This exercise shall be completed expeditiously and in any event, not later than four (4) weeks from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Date:08.12.2015

GJ