

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

W.P.No.11950 of 2015

ORAL ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief :

“ ... to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, to declare the action of the respondent No.3 and 4 herein in threatening to seize the Auto bearing Reg.No.AP-36-Y-2106 and also the stocks during the pendency of the appeal before the 2nd respondent filed against the confiscation orders passed by the 3rd respondent dated.20.2.2015 vide Cr.No.1028/2014/P&E/B4, as being illegal, arbitrary and unjust and consequently direct the Respondent Nos.3 and 4 herein not to seize the vehicle and the stocks, till disposal of the appeal before the 3rd respondent herein.”

Heard Sri Babuji Tenneti, learned counsel for the petitioners and the learned Government Pleader for Prohibition and Excise for the respondents apart from perusing the material available on record.

The Deputy Commissioner of Prohibition and Excise, Warangal, Warangal District, 3rd respondent herein passed an

order dated 20.2.2015 in Cr.No.1028/2014/P&E/B4, directing the petitioners herein to produce the vehicle AP 36Y 2106 and contraband i.e. 2250 Kgs of Alum and 270 kgs of Back Jaggery for taking further action in the matter, while ordering confiscation of the said vehicle and contraband under the provisions of Section 13(2) of A.P. Prohibition Act, 1995 and Section 46(2) of the A.P. Excise Act, 1968.

Against the said order of confiscation passed by the 3rd respondent, the petitioner herein filed an appeal on 18.4.2015 before the 2nd respondent-Commissioner of Prohibition and Excise, Hyderabad under Section 13 of the A.P. Prohibition Act and Section 46 of the Excise Act, 1968 and the said appeal is pending consideration before the 2nd respondent-Commissioner of Prohibition and Excise, Hyderabad. It is alleged in the affidavit filed in support of the writ petition that despite having the knowledge of the pendency of the statutory appeal, the respondents are threatening the petitioner to produce the vehicle with stocks. In the present case, reality remains, even according to the instructions of the learned Government Pleader, that statutory appeal is pending consideration before the 2nd respondent-Commissioner of Prohibition and Excise, Hyderabad and the same has to be decided in one way or other by the said authority in accordance with law. According to the learned counsel for the petitioner, no stay application is filed by the petitioners.

In the circumstances, the petitioners are permitted to file stay application before the 2nd respondent-Commissioner of Prohibition and Excise, Hyderabad within a period of one week from today. If such stay application is filed within the said stipulated time, the same shall be considered and disposed of by the 2nd respondent-Commissioner of Prohibition and Excise, Hyderabad within two weeks from thereafter, as per law, after giving opportunity to the

petitioners. Till such time status quo as on today shall be maintained.

With the above directions, the writ petition is disposed of at the admission stage. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE A.V.SESHA SAI

Dt: 23.4.2015

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