IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

****

WRIT PETITION No.26758 OF 2015

Between:

M/s.Shiva Wines, rep. by its Proprietor
Are Venkatesh, and another.

. Petitioners

and

The State of Telangana, rep. by its
Secretary, Prohibition and Excise Department,
Secretariat, and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCEMENT : 24th AUGUST, 2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE SANJAY KUMAR

1.	Whether Reporters of Local newspapers may be allowed to see the judgment?	Yes/No
2.	Whether the copies of judgment may be marked to Law Reporters/Journals	~~Yes~~/No

3. Whether His Lordship wishes to see the fair copy of the judgment? ~~Yes~~/No

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.26758 OF 2015

O R D E R

Seizure of the stocks of the two petitioner wine shops was the subject matter of W.P.No.10168 of 2015 before this Court. By order dated 17.04.2015, the said writ petition was disposed of with directions. The operative portion of the said order reads as under:

> 'Evidently, for adjudication on the said questions, certain disputed questions of fact would fall for consideration and this Court would not embark upon adjudication of such questions, particularly, as the petitioners have an efficacious alternative remedy of preferring an appeal before the Commissioner. Hence, I am not inclined to entertain the writ petition and deem it appropriate to relegate the petitioner to the said appellate remedy. If such an appeal is filed, learned Commissioner shall examine the petitioner's contentions with reference to the records and pass a reasoned order expeditiously, preferably, within a period of two (2) weeks of filing of the appeal. Pending consideration of the said appeal, as aforesaid, all further proceedings pursuant to the confiscation order passed hereunder shall remain stayed and shall be subject to the orders of the Commissioner in the appeal.
>
> The writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.'

Pursuant to the aforestated order, the Commissioner of Prohibition and Excise, Telangana, Hyderabad, issued individual proceedings dated 19.06.2015 in relation to the two petitioner wine shops, which are subject matter of challenge in this writ petition.

Sri Vedula Venkataramana, learned Senior Counsel appearing for the petitioner wine shops, contended that the Commissioner of Prohibition and Excise, Telangana, Hyderabad, failed to address the issues raised by his clients in the appeals filed by them and by merely taking into account their offer to compound the offences alleged against them, the Commissioner disallowed their appeals.

Perusal of the impugned individual proceedings dated 19.06.2015 reflects that after setting out the facts at great length, the Commissioner of Prohibition and Excise recorded his reasons for disallowing the two appeals in the last paragraph of the proceedings. This last paragraph reads to the effect that as the petitioner wine shop in each case had made an application stating that without admitting the allegations made against it and to avoid future litigation, it sought to compound the offences, the same showed that it had committed the offence. This reasoning on the part of the Commissioner was self-contradictory as he began the sentence by stating that the applications made by the two petitioner wine shops were without prejudice to their contention that they did not admit the allegations leveled against them.

That apart, this Court, vide the order passed in W.P.No.10168 of 2015, had directed the Commissioner to examine the petitioners' contentions with reference to the records and thereupon pass a reasoned order. The contention of the two petitioner wine shops was to the effect that no non-duty paid liquor was found in their premises and therefore, the action initiated against them was not warranted. This aspect of the matter was not even considered by the Commissioner. The impugned proceedings are therefore not in conformity with what was required of the Commissioner pursuant to the order passed by this Court in W.P.No.10168 of 2015. The impugned proceedings are accordingly set aside and the matter is remitted to the file of the Commissioner of Prohibition and Excise, Telangana, Hyderabad, to consider the matter afresh on the basis of the records and specifically deal with the contention of the two petitioner wine shops as directed by this Court in the earlier round of litigation. This exercise shall be completed expeditiously and in any event, not later than two weeks from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

24th AUGUST, 2015
PGS