

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIFTEEN
PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.16298 of 2014

BETWEEN

M/s. White Horse Restaurant and Bar.

... PETITIONER

AND

The Government of Andhra Pradesh, Rep. by its Principal Secretary,
Revenue (Ex-II) Department, Secretariat, Hyderabad and others.

...RESPONDENTS

Counsel for the Petitioner: MR. K. RATHANGA PANI REDDY

Counsel for the Respondents: GP FOR PROH. & EXCISE (AP)

The Court made the following:

-
-
-

ORDER:

Petitioner herein held a 2B license and was running a bar in the name

of M/s. Golden Restaurant and Bar for the excise year 2006-2007 at Acharya Street, Nellore. The said license was being renewed from year to year but the same could not be renewed for the year 2010-2011 as the owner of the premises did not extend the lease. Petitioner submits that though he made an application dated 19.02.2011 for renewal of the license and had also paid first installment and bank guarantee for second and third installments,

he could not secure the renewal. Since the petitioner's application was rejected, petitioner preferred a revision before the first respondent and by order of the first respondent dated 09.08.2012; the revision was disposed of directing the petitioner to pay the annual fee for the excise year 2010-2011 and 2011-2012.

2. Petitioner states that, thereafter, for the purpose of grant of license, since the penal interest was also demanded, he filed WP.No.18138 of 2013 and this Court by order dated 26.06.2013, granted interim direction to the authorities not to insist on payment of penal interest and not to refuse renewal on that ground. Petitioner's license was, thereafter, stated to have been renewed on 29.08.2012 after petitioner paid an amount of Rs.66,00,334/- and also changed the name of the bar to M/s. White Horse Restaurant and Bar.

3. Petitioner states that he had been running the said bar after obtaining license year after year including the present excise year and that he has made an application seeking refund of the amounts paid by him for the excise year 2010-2011 and 2011-2012 on the ground that he was, ultimately, not granted any license for the said two years. Petitioner also relies upon and cites an instance of M/s. Park Restaurant and Bar, Guntur, which was granted the benefit of refund/adjustment in similar circumstances. Petitioner made a detailed representation, on the aforesaid ground, addressed to respondents

1 and 2 dated 23.04.2014. Complaining of non-consideration thereof, the

present writ petition is filed.

4. Learned Government Pleader has filed a counter affidavit wherein various contentions of the petitioner are dealt with on merits.

5. However, the counter affidavit does not either contravert or say anything about the aforesaid pending representation of the petitioner. Evidently, the petitioner's request for consideration of his representation is the only issue, which is complained of in this writ petition. Petitioner's representation, referred to above, therefore, is required to be considered and appropriate orders are required to be passed as to whether the petitioner is entitled to any refund/adjustment of the license fee paid in the circumstances mentioned above. Since there is no order passed either accepting or rejecting the said representation, it is premature, at this stage, to consider whether the petitioner's claim for refund/adjustment is legal or not. Hence, the averments in the counter affidavit disputing the claim of the petitioners are not necessary to be traversed and suffice it to note that the petitioner's averments regarding the pendency of the said representation, as mentioned in para 6 of the affidavit, are not contraverted in the counter affidavit.

6. In the circumstances, respondent No.1 is directed to consider the aforesaid representation of the petitioner dated 23.04.2014 and after taking a decision, issue appropriate directions to the second respondent, preferably, within a period of two (2) months from the date of receipt of a copy of this order.

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.

VILAS V. AFZULPURKAR, J

March 2, 2015
DSK