

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

WEDNESDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.3537 of 2015

BETWEEN

M/s.Priya Wines, rep. by its Proprietor

... PETITIONER

AND

The State of Andhra Pradesh, Revenue (Excise-II) Department, and others

...RESPONDENTS

The Court made the following:

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ORDER:

Heard.

2. Petitioner herein is a subsequent licensee of A4 shop bearing Sl.No.7 i.e., Ward No.15 of Machilipatnam. Since the location of the shop in ward No.15 was questioned by three petitioners including petitioner herein in a writ petition viz., W.P.No.17619 of 2014 before this court, during the pendency of the said writ petition, the notification of the respondents was itself under suspension. The said order of suspension was also examined by a Division Bench of this court in W.A.No.988 of 2014 and the suspension was confined to the shop proposed to be located in Ward No.15 as per orders of Division Bench dated 29.06.2014. However, in view of the subsequent developments

where the petitioner emerged as a successful bidder and sought relocation of the said shop to ward Nos.26 and 27, the said application of the petitioner seeking consideration of his request for shifting was considered and disposed of by me vide orders in WPMP No.42052 of 2014 in W.P.No.17619 of 2014, dated 24.12.2014. It appears that thereafter the Commissioner considered the request of the petitioner and permitted him to relocate the shop to ward No.26 vide orders of the Commissioner dated 03.01.2015 and only thereafter petitioner could commence business from 05.01.2015 in the new premises in ward No.26. Petitioner, however, states that on account of the suspension granted by this court in the aforesaid writ petition and in view of the pendency of the appeal for a period of 76 days, he could not run the shop though he has paid the licence fee and seeks remission with respect to the said period. Petitioner states that the said request for remission was duly recommended by the Prohibition and Excise Superintendent to the Additional Commissioner under his proceedings, dated 29.01.2015. When the Additional commissioner called for a further report, the Prohibition and Excise Superintendent submitted the report also on 07.02.2015 recommending the remission of proportionate licence fee for 76 days. While the said matter is stated to be pending with the Additional Commissioner, the present writ petition is filed in view of the invocation of the Bank guarantee by the Prohibition and Excise Superintendent under his letter, dated 11.12.2015, addressed to respondent No.6. Operative portion whereof is as follows:

“Therefore, I request you to send a Demand Draft for an amount of Rs.1250000/- towards 3rd instalment licence fee and penal interest @ 8% upto the date of adjustment into Government account pertaining to the said A4 shop, in favour of Proh. & Excise Superintendent, Machilipatnam, Krishna payable at S.B.I., Machilipatnam. If the above licensee failed to pay the said licence fee on or before 20.02.2015.”

3. Learned Government Pleader for Excise states that the matter is pending with the Additional Commissioner and he will take appropriate decision in the matter shortly.

4. In the circumstances, therefore, I deem it appropriate to dispose of the writ petition directing respondent No.5 to take appropriate decision on the request of the petitioner, in the light of the reports sent by the Prohibition and Excise Superintendent, Machilipatnam, preferably within a week from the

date of receipt of a copy of this order. Till the Additional Commissioner passes appropriate order, as referred to above, the encashment of Bank guarantee after 20.02.2015 shall await appropriate orders that would be passed by the Additional Commissioner. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

February 18, 2015

Note: -

Furnish copy by 19.02.2015. {B/o} LMV