

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

FRIDAY, THE FIRST DAY OF MAY
TWO THOUSAND AND FIFTEEN
PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.13969 of 2015

BETWEEN

M.V.V. Sudhakar Babu.

... PETITIONER

AND

State of Andhra Pradesh, Revenue (Excise) Department, Secretariat,
Hyderabad, Rep. by its Secretary and others.

...RESPONDENTS

Counsel for the Petitioner: MR. O.MANOHER REDDY

Counsel for the Respondents: GP FOR PROH. & EXCISE

The Court made the following:

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ORDER:

After three rounds to this court, again the license of the petitioner is

suspended pending further orders under the impugned order of the Deputy Commissioner of Prohibition and Excise dated 28.04.2015.

2. It may be noted that, in the first instance, the petitioner had moved a writ petition against the order of suspension in WP.No.8768 of 2015 wherein it was noticed that the report of the chemical examination dated 04.03.2015 shows that the allegation of dilution of liquor is incorrect. The second allegation against the petitioner is not a serious allegation and even if the violation is established, the same is stated to be compoundable. This Court, therefore, passed the order dated 06.04.2015 directing the Deputy Commissioner of Prohibition and Excise to take into consideration the objections of the petitioner and the report of the chemical examiner and pass appropriate orders afresh. The said order was also affirmed in appeal by a Division Bench of this Court in WA.No.291 of 2015 dated 09.04.2015 directing that the petitioner shall be given personal hearing before passing of the order. In spite of the said direction, again an order of suspension was passed without hearing the petitioner. Hence, the petitioner approached this Court again in WP.No.11833 of 2015, which was allowed on 22.04.2015 remitting the matter to the Deputy Commissioner of Prohibition and Excise, who has again passed the present impugned order, which does not even take into consideration the chemical analysis report in favour of the petitioner and the suspension of the petitioner is continued pending further orders.

3. Learned counsel for the petitioner points out that the second allegation does not arise and only the first allegation, which is also unsubstantiated, cannot stand.

4. Even otherwise, as mentioned above, the said first allegation, even if established, is stated to be compoundable. However, as the impugned order is appealable, instead of retaining the writ petition on the file of this Court, it would be appropriate for the Commissioner for Prohibition and Excise to consider the matter and take appropriate decision.

5. Learned Government Pleader states that if the petitioner files an appeal, the same shall be disposed of by the Commissioner within a period of ten days.

6. Recording the aforesaid statement, the petitioner is permitted to file an appeal along with an application for compounding the offence and the Commissioner is directed to re-examine the matter including the chemical analysis report in favour of the petitioner and to the extent of remaining allegation, as to whether it is serious or compoundable, the Commissioner to take appropriate decision in the matter within a period of ten (10) days of filing of the appeal and application as noted above.

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

May 1, 2015
DSK