

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.33881 of 2015

ORDER:

The grievance of the petitioner is that the Commissioner of Prohibition and Excise, Andhra Pradesh, Hyderabad, the 2nd respondent, by order dated 30.09.2015, rejected the petitioner's request for shifting its A4 shop from Divisions 3 and 12 to Division 26 of Tirupati Municipal Corporation. A consequential direction is sought to the 2nd respondent to permit such shifting.

Perusal of the impugned proceedings dated 30.09.2015 reflects that the Commissioner was of the opinion that no A4 shop was proposed in the erstwhile 12 prohibited wards for the excise years 2015-2017. In the second page of the impugned proceedings the Commissioner stated as under:

"It is also a fact that, no A4 shop was shifted/relocated into any of the (12) non-notified wards with a view to protect the sentiments of the pilgrims. If shifting of any A4 shop is permitted into any of these non-notified wards, it not only disseminates wrong message to the public but also amounts to Mushroom growth of A4 shops in that area."

Citing the afore-stated ground, the representation of the petitioner for shifting of its A4 shop was rejected.

Sri M.P.Chandramouli, learned counsel for the petitioner, contended before this Court that the afore-stated observation recorded by the Commissioner was factually incorrect. Thereupon, the learned Government Pleader for Prohibition and Excise was asked to verify as to the veracity of this contention.

Today, the learned Government Pleader fairly admitted that the statement recorded by the Commissioner was, in fact, factually incorrect.

This Court is of the considered opinion that the factual error recorded by the

Commissioner in the impugned proceedings reflects lack of application of mind. Vested with statutory power, the Commissioner is expected to deal with an application for shifting of the licensed premises in accordance with the norms and the proper perspective. The fact that the Commissioner cited a factual error in the impugned proceedings demonstrates that application of mind in the present case was not up to the required standard.

On that short ground, the impugned proceedings dated 30.09.2015 are set aside and the matter is remitted to the Commissioner of Prohibition and Excise, Andhra Pradesh, Hyderabad, for consideration afresh in accordance with law. This exercise shall be completed expeditiously and in any event not later than two (2) weeks from the date of receipt of a copy of this order.

The writ petition is accordingly allowed.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Date:07.11.2015

GJ