

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.26029 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue writ, order or a direction, more particularly one in the nature of writ of mandamus, declaring the notification in Rc.No.104/2015/B1, dated 12.08.2015 issued by the 3rd respondent herein, as illegal, arbitrary and unjust in the interest of justice.”

2. Heard Sri M.V.S.Suresh Kumar, learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise (A.P).

3. When the matter is taken up, a preliminary objection with regard to the maintainability is taken by the learned Government Pleader for Prohibition and Excise stating that as against the impugned proceedings a revision lies to the State Government under the provisions of Section 64 of the A.P. Excise Act, 1968 and the said provision of law reads as under:

“64. Revision: The Government may, either *suo motu* or on an application call for and examine the records of any officer in respect of any decision, order or other proceedings made under this Act, including those relating to the grant, issue or refusal of a licence, or permit, for the purpose of satisfying themselves as to correctness, legality or propriety of any such decision or order or as to the regularity of such proceedings, and if in any case, it appears, to them that such decision, order or proceedings should be modified, annulled, reversed or remitted for reconsideration they may pass orders accordingly. Provided that no order adversely affecting any party, shall be passed under this Section unless he has been given an opportunity of making his representation.”

4. In view of the above alternative and efficacious remedy of revision as provided under Section 64 of the Andhra Pradesh Excise Act, 1968,

this Court is not inclined to entertain the present writ petition under Article 226 of the Constitution of India.

5. It is submitted by the learned counsel for the petitioner that the petitioner herein may be permitted to avail the said remedy. It is submitted by the learned Government Pleader that if any such revision is filed by the petitioner herein, the same will be disposed of immediately within a period of three days.

6. For the aforesaid reasons and having regard to the submissions made by the learned counsel for the petitioner and the learned Government Pleader, the writ petition is disposed of, permitting the petitioner herein to file statutory revision under Section 64 of the A.P. Excise Act, 1968 against the impugned notification dated 12.08.2015, within three days from the date of receipt of this order. If any such revision is filed within the time stipulated above, the same shall be considered and appropriate orders be passed by the revisional authority, within a period of one week thereafter. In the meanwhile, the proposal for drawl of lots may go on, but the same shall not be finalised. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No costs.

A.V.SESHA SAI, J

Date: 17.08.2015

Note:
Office to furnish
CC today.

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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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W.P.No.26029 of 2015

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Dated 17th August, 2015

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Date:17th August, 2015

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Between:

Davuluri Srinivasa Rao, s/o Sri D.Laxminarayana,
Aged about 32 years, Occupation: Business,
R/o Pulipadu village, Guruzala Mandal, Guntur district. ... Petitioner

and

The State of Andhra Pradesh represented
By its Principal Secretary (Excise), Secretariat
Buildings, Saifabad, Hyderabad and two others.
... Respondents

DATE OF JUDGMENT PRONOUNCED: 17th August, 2015

SUBMITTED FOR APPROVAL: 17th August, 2015

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THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

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 Their Lordship wish to see the
Fair copy of the judgment? Yes/No