

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.29894 of 2015

ORDER:

This writ petition was filed assailing the proceedings dated 31.08.2015 issued by the Commissioner of Prohibition and Excise, State of Telangana, the second respondent, in exercise of appellate powers.

Perusal of the impugned proceedings reflects that this was the second round before the appellate authority as this Court had set aside the earlier order passed by the appellate authority. In the order dated 15.07.2015 passed in W.P.No.11788 of 2015, this Court issued directions in the following terms:

“For the aforesaid reasons and having regard to the nature of controversy, Writ Petition Nos.9127, 9215 and 11788 of 2015 are allowed, setting aside the orders vide proceedings Nos.449/2015/CPE/TS/F3, 955/2015/CPE/TS/F3 and 448/2015/CPE/ TS/F3, dated 27.03.2015 respectively, and the matters are remanded to the Commissioner of Prohibition and Excise/second respondent herein, for fresh consideration in accordance with law, after giving notice and opportunity of being heard to the petitioners herein in terms of the observations made supra. However, it is made clear that as the orders of the Commissioner of Prohibition and Excise/second respondent herein are set aside, the petitioners herein are entitled to make their applications for compounding, if any, in accordance with law and the same shall be considered according to the provisions of A.P. Excise Act, 1968 and the Rules made thereunder. This exercise shall be completed within a period of three weeks from the date of receipt of a copy of this order. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand disposed of. There shall be no order as to costs.

Writ Petition Nos.6776, 6784, 6788, 6812 and 6847 of 2015 are dismissed. However, it is open for the petitioners herein to make appropriate application before the competent authority as per the provisions of Section 47 of the Act. Miscellaneous Petitions, if any, pending in these writ petitions, shall stand disposed of. There shall be no order as to costs.”

The only issue that was taken into consideration by the appellate authority under the impugned proceedings dated 31.08.2015 was that the licensee of the petitioner shop, appearing as a party-in-person, offered to compound the offence. The said offer was taken to be a confession of guilt insofar as the commission of the offence was concerned. Significantly, this Court had permitted the licensee of the petitioner shop to make such an application and by merely making such an

application, the licensee of the petitioner shop could not be deemed to have admitted his guilt. There was no consideration of any of the grounds raised by the licensee in his appeal or his written arguments.

The learned Government Pleader for Excise fairly conceded that the proceedings dated 31.08.2015 are not in conformity with the directions issued by this Court in the earlier round of litigation.

In that view of the matter, the impugned proceedings dated 31.08.2015 are set aside and the matter is remitted to the appellate authority, the Commission of Prohibition and Excise, Stat of Telangana, to consider the matter afresh in terms of the directions of this Court in W.P.No.11788 of 2015 and pass appropriate reasoned orders in the matter in accordance with law. This exercise shall be completed expeditiously and in any event, not later than two weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

25th November, 2015

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