

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.23510 of 2009

ORDER:

The petitioner, the President of Toddy Tappers Co-operative Society, Kodangal, Mahabubnagar District, approached this Court assailing the proceedings dated 18.07.2009 issued by the Prohibition and Excise Superintendent, Mahabubnagar, cancelling the licence dated 09.10.2007 in respect of Toddy Shop No.1 of the Toddy Tappers Co-operative Society, Kodangal. A consequential direction was sought to the authorities to permit the petitioner-Society to run Toddy Shop No.1.

By order dated 04.11.2009, this Court granted interim suspension of the cancellation proceedings dated 18.07.2009. The said order was made absolute on 12.04.2010 after dismissing the vacate stay petition filed by the Excise authorities. Perusal of this order reflects that the Society was granted licences for three shops and the licences for two out of the three shops were cancelled owing to alleged adulteration of toddy. Pursuant to such cancellation, the licence in respect of Shop No.1, was also cancelled under the impugned proceedings dated 18.07.2009.

The legal position, however, as set out in Rule 39 of the Andhra Pradesh Excise (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007 (for brevity 'the Rules, 2007'), was that if the adulteration was for the first time, the Members of the Managing Committee could be expelled as per procedure, but the licence of the Society could be continued. It was only in the event of adulteration for the second time that cancellation of all licences could be affected.

Taking note of the aforesaid position, this Court by the order dated

12.04.2010, recorded that as the Toddy Tappers

Co-operative Society, Kodangal, was stated to have indulged in adulteration in respect of Shop Nos.2 and 3 for the first time, the cancellation of the licence in respect of Shop No.1 did not appear to be proper and valid and accordingly continued the interim order till disposal of the writ petition. The Excise authorities were granted liberty to take steps for removal of the Members of the Managing Committee of the Society in terms of Rule 39 of the Rules, 2007.

Sri K.Jagadishwar Reddy, learned counsel for the petitioner-Society, informed this Court that insofar as the cancellation of the licence for Shop Nos.2 and 3 is concerned, the revision filed by the Society before the Government is still pending consideration. He further stated that no steps have been taken by the Excise authorities for removal of the Members of the Managing Committee of the Society, though liberty was granted by this Court to take steps in this regard as per procedure.

In the light of the aforesaid developments, this Court is of the opinion that the petitioner-Society's licence in respect of Shop No.1 could not have been cancelled on the ground of cancellation of the licences of the other two shops, as it was admittedly a first instance of alleged adulteration by the Society. The Rule therefore did not permit the Excise authorities to resort to cancellation of all the licences of the Society.

The impugned proceedings dated 18.07.2009 are accordingly set aside. This, however, shall not preclude the authorities from taking necessary action as provided under Rule 39 of the Rules, 2007, in accordance with law.

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:12.10.2015

GJ