

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

FRIDAY, THE SEVENTEENTH DAY OF APRIL
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.10168 of 2015

BETWEEN

M/s. Shiva Wines and another.

... PETITIONER

AND

The State of Telangana, Rep. by Secretary, Prohibition and Excise
Department, Secretariat, Hyderabad and others.

...RESPONDENTS

The Court made the following:

ORDER:

Heard.

2. When this writ petition was heard on 10.04.2015, I had passed the following order requiring the learned government pleader to get instructions.

“Order of confiscation, dated 18.03.2015, is questioned in this writ petition. Though the order is clearly appealable, only on the contention of the learned senior counsel for the petitioner specifically relying upon paragraph 4 of the explanation submitted before the Deputy Commissioner that no inspection or seizure of petitioner's shop took place nor any panchanama was conducted nor any non-duty paid liquor is found, writ petition is proposed to be entertained subject to the instructions of the learned Government Pleader.

Learned Assistant Government Pleader to get instructions.

List on 17.04.2015 in the motion list.”

3. Learned Government Pleader has *inter alia* submitted before the Court that allegations of the petitioners that no inspection or seizure of the petitioner's shop was effected nor any panchanama was conducted is factually incorrect and has produced copy of the panchanama in Telugu

dated 29.01.2015 relating to petitioner Nos.1 and 2 shops whereunder the stocks were seized, which are now subject matter of present confiscation proceedings impugned in this writ petition.

4. Learned senior counsel for the petitioner states that even as per the said panchanama no non duty paid liquor was found in the petitioners shop and, as such, the suspension as well as the confiscation proceedings are totally unwarranted. Learned senior counsel also states that but for the violations by one shop out of 7 viz. Sai Wines, the shops of the petitioners are also proceeded, though there is no violation of conditions of licence.

5. Evidently, for adjudication on the said questions, certain disputed questions of fact would fall for consideration and this Court would not embark upon adjudication of such questions, particularly, as the petitioners have an efficacious alternative remedy of preferring an appeal before the Commissioner. Hence, I am not inclined to entertain the writ petition and deem it appropriate to relegate the petitioner to the said appellate remedy. If such an appeal is filed, learned Commissioner shall examine the petitioner's contentions with reference to the records and pass a reasoned order expeditiously, preferably, within a period of two (2) weeks of filing of the appeal. Pending consideration of the said appeal, as aforesaid, all further proceedings pursuant to the confiscation order passed hereunder shall remain stayed and shall be subject to the orders of the Commissioner in the appeal.

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

April 17, 2015
LMV