

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.35943 of 2015

ORDER:

The petitioner participated in the drawal of lots for allotment of a A.4 shop under the Andhra Pradesh Excise (Grant of Licence of Selling by Shop and Conditions of Licence) Rules, 2012 (for brevity 'the Rules of 2012'). He paid the requisite fee of Rs.50,000/- and a sum of Rs.5,00,000/- by way of a demand draft towards Earnest Money Deposit (EMD). Admittedly, when the drawal of lots took place on 23.09.2015 in relation to the shop for which he had applied, the petitioner was not present and the second lot was drawn and the shop was allotted to another applicant. The petitioner's complaint was however not with regard to this issue. According to him, the EMD amount of Rs.5,00,000/- which was furnished by him by way of a demand draft was returned in the first instance by the excise authorities and he allowed another applicant, by name Madhu, to utilise the same in relation to the A.4 outlet which was awarded to him. However, the excise authorities appropriated this demand draft and informed the petitioner that the same stood forfeited to the Government in relation to the application submitted by him for the shop that he had tendered for. The petitioner therefore seeks a direction to the excise authorities to return the said demand draft.

Sri K.Venumadhav, learned counsel for the petitioner, admits that the petitioner was not present at the time when the lot was drawn in his favour in relation to the shop that he had applied for.

In that view of the matter, Rule 12(6)(g) of the Rules of 2012 would have application and not Rule 12(6)(e) or Rule 16(3) of the said Rules, as contended by Sri K.Venumadhav, learned counsel.

Rule 12(6)(e) of the Rules of 2012 applies to a case where the selected applicant was present at the time of selection but was not willing to take the licence. Rule 16(3) of the Rules of 2012 applies to a case where the selected applicant, being present at the time of selection, opts to pay the licence fee in instalments and has to pay 1/3rd of the licence fee on the day of selection or the succeeding working day. Neither of these two Rules has application when the successful applicant is not

available at the time of selection as in the present case. Such a case would squarely fall within the ambit of Rule 12(6)(g) of the Rules of 2012 which states to the effect that when the successful applicant is not available at the time of selection, the EMD paid by such applicant shall be forfeited and the selection process shall be continued by taking a fresh lot, if necessary. As that is exactly what happened in the present case consequent upon the petitioner's absence at the time his name was picked in the drawal of lots, the petitioner can have no grievance as to the forfeiture of his EMD. The prayer of the petitioner is therefore contrary to the rules and cannot be countenanced.

The writ petition is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

Date:07.12.2015

GJ