

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

WRIT PETITION NO.19982 OF 2015

ORDER:

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

“to issue a writ, order or direction, more particularly one in nature of Writ of Mandamus declaring the action of the respondents no. 3 and 4 in not allotting the A4 license in respect of Shop No.46 of Guntakal Municipality, Municipal Election Ward No.16, Guntakal Town, Anantapur District to the petitioner inspite of selecting the petitioner through drawal of lots at first instance, and also trying to issue A4 license in favour of the 5th respondent and selecting the drawal of lots by way of second time on 29.06.2015 is illegal, arbitrary, and consequently direct the respondents to issue A4 license to the petitioner in respect of Shop No.46 of Guntakal Municipality, Municipal Election Ward No.16, Guntakal Town, Anantapur District and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri Vedula Srinivas, learned counsel for the petitioner, learned Government Pleader for respondent Nos. 1 to 4 and Sri Karnam Ramesh, learned counsel for the 5th respondent and perused the material available on record.

It is brought to the notice of this court by the learned counsel for the 5th respondent that Prohibition & Excise Superintendent, Ananthapuram – 3rd respondent herein, by virtue of proceedings Rc.No.140/2015/B, dated 29.06.2015, granted provisional license in favour of the petitioner herein for the period 2015 - 2017 commencing from 01.07.2015 to 30.06.2017. It is also submitted that against the

said order of granting provisional license, statutory appeal lies under Section 63 of Andhra Pradesh Prohibition & Excise Act, 1968 (for short, 'the Act') and the provisions of the Section 63 of the Act reads as under:

Appeals :-

- (1) Any person aggrieved by an order passed by any officer, other than the Commissioner or Collector, under this Act, may within forty five days from the date of communication of such order, appeal to the Deputy Commissioner.
- (2) Any person aggrieved by an order passed by the Deputy Commissioner or Collector under this Act, may, within sixty days from the date of communication of such order, appeal to the Commissioner.

On 01.07.2015, upon hearing the arguments of learned counsel for the petitioner and respondents, this court granted *Status-Quo*. Though number of contentions have been raised by the learned counsel for the petitioner as well as learned counsel for the unofficial respondent, this court is not inclined to go into the same in view of the above mentioned statutory provision of law, which enables the petitioner herein to file statutory appeal. For the aforesaid reasons, this court is inclined to direct the petitioner herein to prefer an appeal before the statutory authority under the provisions of Section 63 of the Act.

For the above reasons, the writ petition is disposed of, permitting the petitioner herein to file statutory appeal under the provisions of Section 63 of the Act against the proceedings of Prohibition & Excise Superintendent, Anathapuram, vide proceedings Rc.No.140/2015/B, dated 29.06.2015, within a period of one week from the date of receipt of copy of this order and if any such appeal is filed by the petitioner herein, the same shall be considered by the Deputy Commissioner, Prohibition & Excise, Ananthapur, who is the

Appellate Authority under the Act, and pass appropriate orders within a period of one week thereafter from the date of filing of the appeal. Till the said exercise attains finality, the *status-quo* granted by this court on 01.07.2015 shall be maintained.

Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V. SESA SAI, J.

Dt.22.07.2015.

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