

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.7809 of 2016

ORDER:

The prayer of the petitioner in this case is as under:

“For the reasons stated in the accompanying Affidavit, it is prayed that this Hon’ble High Court may be pleased to issue writ order or direction more particularly one in the Nature of writ of mandamus declaring the action of the 2nd respondent in rejecting the request of the Petitioner for shifting of his licensed premises from H.No.7-5-29, Raja Rajeswari Complex to H.No.3-1-33/6, Karimnagar Road, Sircilla, Karimnagar district by his proceedings in Cr. No. 128/2016/CPE/TS/F4, dated 04-03-2016 as illegal, arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made thereunder and consequently direct the 2nd respondent to consider the request of the Petitioner for shifting of his licensed premises from H.No. 7-5-29, Raja Rajeswari Complex to H.No.3-1-33/6, Karimnagar Road, Sircilla, Karimnagar district and pass such other or further orders as the Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”

The petitioner’s application seeking permission to shift his licensed premises was rejected under the proceedings dated 04.03.2016 of the Commissioner of Prohibition and Excise, Telangana, Hyderabad, only on the ground that the proposed premises falls within 100 metres of the Highway. According to the Commissioner, this would be violative of the observations of the Committee constituted by the Supreme Court on road safety.

However, the Commissioner appears to have lost sight of the fact that as per the Rules extant, location of a Bar within 100 metres of a Highway is not prohibited. Rule 6 of the A.P. Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005, permits location of a Bar beyond 50 metres from a Highway. As long as the said Rule remains in operation, it is not open to the excise authorities to act in deviation thereof. The rejection of the petitioner’s application

on this ground cannot therefore be countenanced.

The impugned proceedings dated 04.03.2016 are accordingly set aside and the matter is remitted to the Commissioner of Prohibition and Excise, Telangana, for consideration afresh of the petitioner's application in accordance with the Rules and without reference to the earlier cited ground. This exercise shall be completed expeditiously and in any event, not later than one month from the date of receipt of a copy of this order.

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

JUSTICE SANJAY KUMAR

10th March, 2016
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