

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.8942 of 2016

ORDER:

Challenge in this writ petition is to the proceedings dated 19.02.2016 of the Commissioner of Prohibition and Excise, State of Telangana, whereby the request of the petitioner for permission to shift his A4 licenced shop was rejected. The said proceedings were in consequence to the exercise initiated pursuant to the direction of this Court in W.P.No.41081 of 2015, whereby the Commissioner was required to consider the representation made by the petitioner in accordance with the relevant norms and take a decision.

Perusal of the impugned proceedings reflects that the only reason cited by the Commissioner for rejecting the request for relocation is that the selected premises falls within 100 metres of a Highway and the same is not permissible as per the instructions of the Committee on Road Safety constituted by the Supreme Court. The Commissioner of Prohibition and Excise however lost sight of the fact that the rules applicable, namely, the Andhra Pradesh Excise (Grant of Licence of Selling by Shop and Conditions of Licence) Rules, 2012, and more specifically Rule 25 thereof, permit the establishment of a shop 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. That being so, the only ground cited by the Commissioner of Prohibition and Excise for refusing the request of the petitioner cannot be countenanced.

The impugned proceedings dated 19.02.2016 are accordingly set aside and the matter is remitted to the Commissioner of Prohibition and Excise, State of Telangana, for consideration afresh of the petitioner's application dated 04.11.2015 in accordance with the relevant norms. This exercise shall be completed expeditiously and in any event, not later than two weeks from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

Date:18.03.2016

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