

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.36715 of 2015

ORDER:

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

“For all the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the inaction of the respondents 2 and 3 in proposing to allot Shop No.2 of Muramalla Village, I-Polavaram Mandal, E.G. District notified at S.No.256 as Government Retail Outlet in Notification No.56/2015 dt.22.06.2015 through drawal of lots to the intending applicants by altering it as private shop vide Notification No.100/2015 dt.07.11.2015 as highly illegal, arbitrary exercise of power, contrary to A.P. Excise (Lease of Right of Selling by Shop and Conditions of Licence) Rules 2012 and also Violative of Art.14 and 19 of the Constitution of India and consequently to set aside the action of allotting the said shop as notified vide Notification No.110/2015 dt.07.11.2015 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

According to Sri Dilip Naidu, learned counsel representing Sri K.Chidambaram, learned counsel for the petitioner, the notification of the subject shop as a private shop is in violation of Rule 4 of the Andhra Pradesh Excise (Grant of Licence of Selling by Shop and Conditions of Licence) Rules, 2012 (for brevity 'the Rules of 2012').

Rule 4 of the Rules of 2012 deals with the establishment of shops and states to the effect that the Commissioner of Prohibition and Excise, having due regard to the requirement, public order, health, safety and other factors, may fix the number of shops to be established in an area/locality, as he thinks fit, before the publication of notification under Rule 5.

In his counter-affidavit, the Prohibition and Excise Superintendent, Amalapuram, stated that the subject shop was initially notified as a Government Retail Outlet in the notification No.56/2015 dated 22.06.2015. However, after the Government Retail Outlet was opened, its functioning was not on par with the expectations and a

decision was taken to dispose of the Outlet to a private operator through drawal of lots. The decision to do so was not restricted to the subject shop alone as this policy of disposing of Government Retail Outlets was extended to 24 shops.

This Court therefore finds that there is no violation of Rule 4 of the Rules of 2012. Learned counsel is unable to cite any other ground warranting interference in the matter.

The writ petition is therefore 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:04.02.2016

GJ