

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.13951 of 2010

ORDER:

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Petitioner-society has been carrying on toddy business in accordance with the license issued under the provisions of the A.P. Excise (Grant of License to sell Toddy, Conditions of License and Tapping of Excise Trees) Rules, 2007 (for short 'the Rules').

2. While so, on 22.10.2009, the toddy shops of the petitioner society were inspected by the Task Force, more particularly, shop Nos.1 and 6 and samples were taken and after testing, the samples were found to be free from chloral hydrate. However, the samples were sent for expert opinion. Petitioner society was served with proceedings dated 09.02.2010 suspending the license of shop No.1 on the ground of supply of adulterated toddy with Diazepam, which is injurious to the health of the consumers.

A crime occurrence report was also registered in Crime Pr.No.544 of 2009-10 on the file of the Prohibition and Excise Station, Nirmal.

3. After receipt of show cause notice, petitioner society submitted explanation, particularly, raising objection that the sample was not drawn from shop No.1 and that since the petitioner society was running toddy shops, the entire toddy is pooled and stored in Toddy depot and supplied to all the shops. As per the analysis report, the samples drawn from shop No.6 were free from Diazepam whereas sample from shop No.1 was reported to have been adulterated with Diazepam.

4. It is the case of the petitioner society that since toddy was supplied from the depot to all the shops there cannot be adulteration in one shop and absence of adulteration in another shop. Challenging the order of

suspension, the petitioner approached this Court in WP.No.4394 of 2010 and the said writ petition is stated to have been allowed setting aside the orders of suspension of license.

However, the fourth respondent issued a show cause notice for cancellation of license to which the petitioner submitted a detailed explanation on 06.04.2010 and after receipt of the explanation, the license of the petitioner society was cancelled by proceedings dated 24.04.2010. Challenging the same, the petitioner preferred an appeal to the third respondent, who confirmed the same by order dated 04.05.2010. Challenging the appellate order, the present writ petition was filed.

5. In the memorandum of appeal to the appellate authority it was alleged that the respondents have not considered the application of the petitioner for sending other samples for analysis. It was alleged that drawing of sample was planted by IMFL syndicate and it was also alleged that no notice was issued to the society before drawing of samples. Lastly, it was alleged that since two shops were inspected on the same day, there cannot be any scope for adulteration in one shop and no adulteration in another shop. The appellate authority considered the said grounds in detail and dismissed the appeal by holding that as per the chemical analysis report of the samples drawn, it was established that the toddy was adulterated with Diazepam in the toddy shop TCS Nirmal Shop No.1. The said adulteration is prohibited under Rules 16 and 49 of the Rules. Since the finding of fact was recorded against the petitioner society on the basis of chemical analysis report, this Court cannot set aside the said finding in the absence of contrary evidence. Moreover, the license period of the shop also expired and nothing survives for consideration at this length of time.

In the circumstances, the writ petition is dismissed. As a sequel, miscellaneous applications, if any, pending shall stand closed. There shall be no order as to costs.

March 10, 2016
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A. RAMALINGESWARA RAO, J