

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.38901 of 2012

ORDER:

Heard the learned counsel for petitioners and the learned Government Pleader for Prohibition and Excise (AP) for respondents.

2. The petitioners are licence holders of Form 2-B for running restaurant and bar in Parvathipuram town and municipality. Their licences were renewed from time to time including during the year 2012-2013. When they were asked to remit the licence fee above Rs.25 lakhs on the ground that the population of the Parvathipuram town exceeded 50 thousand, the present writ petition was filed.

3. It is the contention of the petitioners that as per census figures of 2001, the population of Parvathipuram town was only 49714 and the required licence fee is not more than 25 lakhs. However, they paid the first instalment, and when the second instalment was due before the end of December, 2012, they filed the present writ petition.

4. This Court, by order dated 21.12.2012, granted extension of time for payment of the second instalment upto 10.01.2013 without prejudice to the rights of the petitioners.

5. A counter-affidavit was filed on behalf of the respondents stating that though as per the census figures of 2001, the population of Parvathipuram town was 49714, as per the provisional publication of population figures of 2011, the population of Parvathipuram town is 53971. It was further stated that as per Rule 10 of Bar Rules, 2005, the annual fee for 2-B licence shall be at the rates as notified by the Government from time to time. It was also stated that as per Rule 3(1) (m) of the said Rules, the "population" means the figure of population as officially published in the latest census. Since 2011 census is provisionally published showing the population of Parvathipuram as

53971, the licence fee was fixed at Rs.35 lakhs. It was also stated that an identical issue came up for consideration before a Division Bench of this Court in W.A.No.1610 of 2002 and batch and the Division Bench held as follows:

“ The provisional publication is also an official publication. Officially the figures of population are provisionally published. Neither Rule 3(1) nor the provisos amended from time to time speak about any final publication.”

6. In view of the said clear position and the law as interpreted by this Court in W.A.No.1610 of 2002 and batch, the relief sought for by the petitioner cannot be granted and accordingly, the writ petition is dismissed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 18.02.2016
TJMR