

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.5735 OF 2016

ORDER

The petitioner assails the action of the excise authorities in not granting him a Form-2B bar licence for the excise year-2016 though he complied with all the requirements and conditions.

In his counter-affidavit, the Prohibition and Excise Superintendent, Anakapalle, stated that prior clearance in Form-2A was granted to the petitioner by the Commissioner of Prohibition and Excise, Andhra Pradesh, under proceedings dated 23.12.2015. Upon due verification, the Prohibition and Excise Superintendent, Anakapalle, furnished proposals to the Deputy Commissioner of Prohibition and Excise, Visakhapatnam, in terms of Rule-5 of the Andhra Pradesh Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005, under his report dated 30.12.2015. Thereupon, the Deputy Commissioner of Prohibition and Excise, Visakhapatnam, granted a licence to the petitioner under proceedings dated 30.12.2015 and directed the Prohibition and Excise Superintendent, Anakapalle, to take necessary action for issuance of the licence in Form-2B. According to the Prohibition and Excise Superintendent, Anakapalle, no action was taken thereafter, in view of the *status quo* order dated 31.12.2015 granted by this Court in WPMP No.55284 of 2015 in W.P.No.42888 of 2014.

However, Sri K.G.Krishna Murthy, learned senior counsel representing Smt. K.Vedavathi, learned counsel for the petitioner, would contend that the aforestated *status quo* order has no role to play in the matter and that the authorities were acting arbitrarily and illegally in not concluding the necessary formalities for granting the petitioner a license in Form-2B.

The record was called for and produced accordingly. Perusal thereof reflects that 116 bars existed in the Municipality and the

petitioner's application was the 74th. There is no indication of the applications received being in excess of the number of bar licenses available, whereby recourse would have to be taken to the procedure prescribed under G.O.Ms.No.19 dated 20.01.2016, in relation to which cases are pending before this Court and in which interim orders are granted. The record further reflects that the application of the petitioner was not dealt with under the Memo dated 21.12.2015, in relation to which interim orders have been granted by this Court in another batch of writ petitions.

That being so, the present case has no connection with either the Memo dated 21.12.2015 or G.O.Ms.No.19 dated 20.01.2016. The *status quo* order dated 31.12.2015 granted by this Court in WPMP No.55284 of 2015 in W.P.No.42888 of 2014, in relation to the Memo dated 21.12.2015, therefore has no nexus and the failure of the excise authorities in proceeding further, by taking shelter under the said *status quo* order, cannot be countenanced. All the more so, as the license has already been granted to the petitioner and only the formality of issuing him such license in Form-2B remains.

There shall accordingly be a direction to the Prohibition and Excise Superintendent, Anakapalle, the fourth respondent, to forthwith take necessary action pursuant to the grant of the licence to the petitioner by the Deputy Commissioner of Prohibition and Excise, Visakhapatnam, and do the needful in accordance with the due procedure. 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 accordingly allowed. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

27th APRIL, 2016

Note: Issue C.C. by tomorrow.
B/o PGS