

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

WRIT PETITION No.13817 of 2016

ORDER:

Petitioner applied for establishment of a Bar in terms of Telangana Excise (Grant of Licence of selling by bar and conditions of licence) Rules, 2005 (for short "the Rules). The petitioner made an application on 09-10-2015 in Form-1A to 3rd respondent.

2. By order in Cr.No.1610/2015/PEX/A1 dt.20-12-2015, the 3rd respondent rejected it by giving the following reasons:

*"1) VAT No.36417699212 dt.17.10.2015
w.e.f.1.10.2015 which was issued after
15.10.2015.*

2) Running Restaurant Existing

3) Not infirmity

*4) No State or National High Way passing near
by."*

3. Petitioner contends that the said order is unsustainable for the reason that there is no restriction as to the VAT registration date in the Excise Rules and the only question is whether on the date of inspection, VAT registration is existing or not. He contends that ground Nos.2, 3 and 4 mentioned in the impugned order of rejection also cannot be accepted since ground Nos.2 and 4 are actually in favour of petitioner and ground No.3

is vague.

4. Learned Government Pleader for Prohibition and Excise appearing for respondents state that the last date for receipt of applications in form-1A is 15-10-2015 and since the petitioner had submitted the VAT registration certificate issued by the Commercial Tax Department dt.17-10-2015 i.e. issued after 15-10-2015, the petitioner is not eligible.

5. Learned Government Pleader for Prohibition and Excise has produced the copy of notification issued by the 1st respondent inviting applications for establishment of 2B Bars under the above Rules. The said notification, nowhere indicates that VAT registration certificate should be obtained by the applicant before 15-10-2015. Also the VAT registration certificate produced by petitioner is effective from 01-10-2015, although it was issued on 17-10-2015.

6. Since there is no mention in the notification issued by respondents that the VAT registration certificate should be obtained before 15-10-2015, it is clear that this ground of rejection cannot be accepted. Ground Nos.2 and 4 mentioned in the impugned are in favour of petitioner and cannot be made a basis for rejecting his application. Ground-3, which says “not in conformity” is non-sensical and also cannot be made a ground to reject petitioner’s application for licence.

7. Therefore, the Writ Petition is allowed and the impugned order dt.20-12-2015 passed by the 3rd respondent rejecting petitioner's application for grant of 2B Bar licence under the above Rules is set aside and respondents are directed to consider the application of petitioner for issuance of prior clearance for establishment of Bar 2B at M/s.Sree Vinayaka Restaurant, Jammikunta, Karimnagar District within three (03) weeks from the date of receipt of a copy of this order. No costs.

8. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 21-07-2016

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