

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
WRIT PETITION No.13393 OF 2009

ORDER:

Heard the learned counsel for petitioner and the learned Government Pleader for Prohibition and Excise (A.P) for respondents.

2. When the Government issued a notification for grant of leasehold rights to sell Indian Made Foreign Liquor for the period from 01.07.2008 to 30.06.2010, the petitioner submitted his tender and became the highest bidder in respect of shop No.1 in Ward No.2 of Yerraguntla Town, Kadapa District for an amount of Rs.37,85,400/-. The petitioner fulfilled all the formalities such as deposit of 1/6th of the lease amount, furnishing bank guarantee, etc. A-4 licence was supposed to be issued on 30.06.2008, but the petitioner was issued a notice by the Prohibition & Excise Inspector, Yerraguntla on 02.07.2008 ordering him to relocate the shop to another place. Challenging the same, the petitioner filed W.P.No.14351 of 2008 and this Court, by order dated 07.07.2008 in WPMP.No.18543 of 2008, directed the respondents therein to issue the licence as per the report dated 28.06.2008 submitted by the fourth respondent therein i.e., Prohibition & Excise Inspector, Yerraguntla. Thereafter the licence was issued on 11.07.2008 and the petitioner commenced his business from that date. The present writ petition is filed for remission/refund of the proportionate amount of licence fee of Rs.51,860/- for 10 days i.e., from 01.07.2008 to 10.07.2008.

3. A counter-affidavit was filed stating that one M.Venugopal Reddy, who was the successful auction purchaser of Shop No.2, Ward No.2 of Yerraguntla for the same lease period, filed an objection petition with the second respondent for establishing the shop by the petitioner adjacent to his shop. He stated in the petition that he would suffer loss, if the petitioner establishes shop nearer to his shop and that the petitioner is in the habit of encouraging his rivals by offering partnership to them which

may lead to friction as well as unhealthy competition and accordingly he requested for issuance of orders for relocating the shop of the petitioner in Ward No.2. The counter further states that in those circumstances only, notice dated 02.07.2008 was issued to the petitioner stating that the proposed shop of the petitioner is nearer to RTC bus stand and also very nearer to the existing A4 shop premises and as such the relocation of the shop was essential. The said notice was challenged and pursuant to the interim orders, the licence was issued in favour of the petitioner, which resulted in 10 days delay.

4. From the above facts, it is clear that the delay occurred due to the objection raised by another licensee, who wanted to locate his shop in the same locality. When a notice was issued to the petitioner on 02.07.2008, he challenged the same by filing W.P.No.14351 of 2008 and this Court directed the authorities to issue licence without having regard to the said notice 02.07.2008. Ultimately, that writ petition was dismissed as infructuous in view of grant of licence in favour of the petitioner.

5. In the absence of examining the validity of the notice dated 02.07.2008, it cannot be held that the authorities were responsible for the delayed licence. However, the learned counsel for the petitioner submits that a detailed notice was issued on behalf of the petitioner on 20.06.2009 and the respondents be directed to consider the same in accordance with law.

6. In view of the above, without going into the merits of the case and without fixing the liability either on the petitioner or on the respondents for the delay in issuance of licence, this Court is constrained to dispose of the writ petition by directing the respondents to consider the notice dated 20.06.2009 issued by the counsel on behalf of the petitioner in accordance with law and pass appropriate orders thereon.

7. Accordingly, the writ petition is disposed of. Miscellaneous

petitions pending, if any, shall stand closed. No order as to costs.

A.RAMALINGESWARA RAO, J

Date: 10.03.2016

TJMR