

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.14608 of 2007

ORDER:

1. The petitioner was given FL 24 license to run the retail wine shop in the name and style of M/s Bhairava Wines, S.R.Puram, Nellore District. The license was granted by the third respondent on 31.03.1998 and within 45 days thereof the license was suspended on 22.05.1998 on the ground that the shop was situated at a distance of 89 meters from Zilla Parishad High School, S.R.Puram. Challenging the same, the petitioner filed W.P.No.15233 of 1998 and this Court by interim order dated 28.05.1998 suspended the said proceedings. However, the Prohibition and Excise Inspector, Udayagiri, inspected the shop on 03.07.1998 and seized the stock. A case in P.R.No.183/97-98 was also registered under Sections 34 (a) and 36 (c) of the Andhra Pradesh Excise Act, 1968 and he was acquitted in the said case. The present writ petition was filed on the ground that in the proceedings dated 18.12.1998 the third respondent held that the refund of the proportionate license fee is subject to the outcome of the criminal case pending against the licensee, which now ended in acquittal. The petitioner also states that as per Government Memo No.17809/Ex.II.2/98-3 dated 25.05.1998, the licensee is entitled for refund of proportionate license fee. On the

representation of the petitioner, the second respondent passed orders on 23.02.2005 rejecting the request for refund of the proportionate license fee. When the petitioner taken the matter in appeal before the first respondent, the same was rejected by Memo No.47322/Ex.II.(2)/2006-1 dated 22.01.2007. Challenging the order of rejection, the present writ petition was filed by the petitioner.

2. Learned Counsel for the petitioner submits that the license was granted after inspection of the premises and the petitioner has not committed any illegality in obtaining the license at the premises mentioned in his application. Since the cancellation of license took place at the instance of the respondents without involvement of the petitioner, the respondents are liable to refund the proportionate license fee. He also submits that though the third respondent in his order dated 18.12.1998 held that the refund of the proportionate license fee would be subject to the outcome of the criminal case pending against the licensee and since the criminal case ultimately ended in acquittal, the request for request for refund of the proportionate license fee cannot be rejected.

3. Section 31 (3) of the Andhra Pradesh Excise Act, 1968 clearly shows that the holder of license or permit shall not be entitled to any compensation for its cancellation or suspension nor to the refund of any fee paid or deposit made in respect thereof. Since the license

issued in favour of the petitioner was cancelled on the ground that the shop was situated near the educational institution and such cancellation was not challenged, the petitioner is not entitled for refund of the proportionate license fee. In the circumstances, the orders passed by the respondents 1 and 2 cannot be held illegal.

4. The Writ Petition is accordingly dismissed. No order as to costs.

5. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

03-03-2016

Gsn