

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 17766 of 2016

ORDER :

The Writ Petition is filed seeking to declare the action of respondent No.2 in issuing proceedings seeking cancellation of toddy shop licenses of Shop Nos.1, 2 and 4 of the petitioner society on the ground of alleged adulteration case which is alleged against shop No.3 of the society, even before finalization of cancellation proceedings as against shop No.3 as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the Assistant Government Pleader for Excise for the State of Telangana appearing for respondents. At the request of both the counsel, the Writ Petition itself is taken up for disposal at the stage of admission.

3. Grievance of the petitioner appears to be that though a show-cause notice was issued by respondent No.2 on 31.05.2016 giving 15 days' time to show cause as to why TCS Vijayapuri North Group Shop No.3 and 1, 2 and 4 licenses bearing Nos. 123/2007-12E, 124/2007-12E, 125/2007-12/E and 126/2007-12E, dated 12.10.2007 should not be cancelled, sample was lifted from toddy shop No.3 and the toddy which was put up for sale in the said shop was found to be adulterated, and as

such initiation of any proceedings or issuing show-cause notice as to why licences of toddy shop Nos. 1, 2 and 4 should not be cancelled, is not warranted. Learned counsel for the petitioner placed reliance on a judgment reported in *T.Laxma Goud v. Excise Superintendent, Adilabad & another*^[1] and contended that before initiating proceedings against toddy shop Nos. 1, 2 and 4, the authorities have to follow the provisions of Section 31 (2) of the Andhra Pradesh Excise Act, 1968.

4. Learned Assistant Government Pleader states that having submitted explanation to the show-cause notice, the petitioner ought to have invited an order, but, instead, it approached this Court by questioning the very same show-cause notice.

5. As seen from the record, respondent No.2 issued show-cause notice to the petitioner on 31.05.2016 and explanation was given by the petitioner on 03.06.2016 giving reasons as to why license of toddy shop Nos. 1, 2 and 4 cannot be cancelled. Since the petitioner subjected itself to the show-cause notice dated 31.05.2016 by submitting explanation on 03.06.2016, it ought to have invited an order in stead of approaching this Court in haste. It is stated by the learned Assistant Government Pleader that against an order passed by the

Prohibition and Excise Superintendent, an alternative remedy is available under law, which the petitioner has to avail before approaching this Court. Be that as it may, having regard to the submission made, respondent No.2 is directed to dispose of the proceedings initiated vide proceedings in Cr. No.332/2012 insofar as shop Nos. 1, 2 and 4 in accordance with law by taking into consideration the explanation submitted by the petitioner and also the authorities on the subject after giving personal hearing to the petitioner, as early as possible preferably within a period of 4 weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition is disposed of Pending miscellaneous petitions in the Writ Petition shall stand closed. No order as to costs.

C.PRAVEEN KUMAR, J

07.06.2016

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Issue CC in 2 days.

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^[1] 1979 (II) Weekly Reporter 290