

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.38127 OF 2016

Dated:08.11.2016

Between:

Pruthvipathi Rao Katikaneni,
S/o.Gopala Krishna Rao,
Aged 59 years, Occ: Business,
R/o.Flat No.404, EPL Genesis,
Safarinagar, Kondapur, Ranga Reddy District .. Petitioner

And

The State of Telangana, rep., by its
Principal Secretary to Government,
Prohibition and Excise Department,
Secretariat, Hyderabad and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.38127 OF 2016****ORDER:**

The petitioner was granted Indian Made Foreign Liquor/Foreign Liquor Bar License in Form-2B on 07.11.2007 in premises bearing Plot Nos.4, 5, 11 and 12 in Part Survey No.76, Jeedimetla, Quthbullapur Mandal and Circle, Greater Hyderabad Municipal Corporation, Ranga Reddy District. The license was renewed from time to time and renewal was due on 01.07.2016. Temporary extension was granted, which expired on 31.10.2016, and therefore the petitioner has applied for renewal. On the issue of scope of renewal, there was continuous correspondence. On 24.10.2016, competent authority passed orders rejecting the renewal of the petitioner for the reasons mentioned therein. Aggrieved thereby, this Writ Petition is filed.

2. Arguments are advanced mainly on the issue of demand for production of lease deed from the owner of the premises for the year 2016-17. According to learned counsel for the petitioner, in terms of Clause 4 of the Lease Agreement, dated 01.10.2013, though lease was initially granted for a period of two years, however, renewal is at the option of the petitioner as a lessee and lease has been renewed from time to time and the same is in operation. Since 2013 lease agreement covers the present period also, the question of submission of fresh lease agreement would not arise. He would therefore submit that demand for submission of fresh lease deed is erroneous. There is a dispute between the

owner of the premises and the petitioner and O.S.No.1255 of 2014 is pending on the file of I Additional Senior Civil Judge, Ranga Reddy District. By virtue of order granted in I.A.No.752 of 2014, the petitioner is in possession of the subject premises. He would, therefore, submit that rejection of the application of the petitioner for renewal is erroneous.

3. Learned Government Pleader for Prohibition and Excise appearing for the respondents would submit that as per Clause 4 of the Lease Agreement, renewal has to be obtained from the owner of the property and no renewal is obtained. Furthermore, in the lease deed dated 16.04.2016 subsequently submitted, the relevant clauses of the agreement are different from the lease deed originally submitted. There are two different lease agreements. To ascertain the genuineness of the lease agreement, the competent authority insisted for production of original lease deed, which should be in the possession of the petitioner. He would submit that earlier the petitioner was directed to produce certain documents for processing the application and in spite of granting sufficient time, the documents required were not produced. He would submit that if the petitioner submits those documents even now, the competent authority would consider the application of the petitioner and would take appropriate decision.

4. Clause 4 of the lease agreement, dated 01.10.2013, requires communication by the lessee for renewal of lease. Whether there was proper communication and whether the lease is renewed and lease amounts are being paid is the subject matter of

O.S.No.1255 of 2014. Therefore, this Court is not inclined to express any opinion on the said issue.

5. With reference to the scope of Rules 6 and 9-A of the Andhra Pradesh Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005 (for short, 'the Rules'), in **Mandakini Restaurant and Bar v. Deputy Commissioner of Prohibition and Excise** followed in W.P.No.36681 of 2015, a **Division Bench** of this Court held that whatever the requirements for applying for fresh licence as per Rule 6 of the Rules would also equally apply for grant of renewal under Rule 9-A of the Rules.

6. In view of the fact that there were two lease agreements submitted to the competent authority, which are having different clauses regarding their continuation of renewal, all the more necessary for the competent authority to insist on production of original lease agreement and the petitioner cannot refuse to produce the documents as required by the respondent authorities for renewal of the application. Since the petitioner did not produce relevant documents, I do not see any error in rejecting the application for renewal. However, since learned Government Pleader for Prohibition and Excise fairly submits that the competent authority would consider the application submitted by the petitioner for renewal even now, if all the relevant documents are submitted by him, while upholding the decision as impugned in the Writ Petition, the petitioner is permitted to submit all the relevant documents as desired by the competent authority in the impugned proceedings and if such documents are submitted, the

competent authority shall consider the application of the petitioner for renewal and take appropriate decision.

7. At this stage, learned counsel for the petitioner further submits that the relevant documents are in the premises and since the premises is locked, the petitioner is unable to enter into the same.

8. In view of the said submission, the petitioner is granted liberty to file an affidavit giving an undertaking to the Prohibition and Excise Superintendent that he would not utilise the premises for any other purpose except for acquiring the documents and relevant material and, at any rate, shall not operate the Bar and on giving such undertaking, the Prohibition and Excise Superintendent may permit the petitioner the access, if that premises is under his lock and key.

9. Having regard to the rival claims and two different lease agreements are available with the competent authority, in the interests of justice, it is also necessary to grant an opportunity of hearing to the petitioner as well as owner of the property, before the competent authority arrives at a conclusion regarding renewal or otherwise of the lease granted in favour of the petitioner. As and when the relevant documents are submitted by the petitioner, the competent authority shall fix a date for personal hearing of the petitioner as well as the owner of the premises by an advance notice, and in consideration of the respective submissions, decision be taken and communicated to the petitioner with

reference to his renewal application within a period of two weeks from the date of submission of documents by the petitioner.

10. With the above observations and directions, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:08.11.2016

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