

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.4904 of 2016

ORDER:

The prayer of the petitioner Toddy Tappers Co-operative Society is two-fold. It is primarily aggrieved by the order dated 19.01.2016 whereby its licences were suspended pending enquiry and the second grievance is with regard to the rejection of its request for sending the second sample to an independent laboratory by order dated 10.02.2016.

Perusal of the impugned proceedings dated 19.01.2016, whereby the petitioner society's licences were suspended pending enquiry, reflects that adulteration of the toddy was allegedly detected at the Depot and in the context thereof, the licences of all the constituent shops were also subjected to suspension pending enquiry.

In such circumstances, this Court finds no reason to interfere with the suspension of the licences pending enquiry as the petitioner society cannot be permitted to continue with its sales through the constituent shops when it is under scrutiny for adulteration of toddy. The impugned proceedings dated 19.01.2016 therefore do not warrant any interference at this stage. However, as the livelihood of the members of the petitioner society is at stake, it would be in the interests of justice that the excise authorities complete the enquiry expeditiously.

Insofar as the second prayer is concerned, the impugned proceedings dated 10.02.2016 reflect that the request of the petitioner society for sending the second sample to an independent laboratory was rejected on the ground that the request was made beyond time.

As per Rule 27(1) of the Andhra Pradesh Excise (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007, the request for sending the second sample has to be made within seven days from the date of communication of the drawl of the sample in case the sample was drawn in the absence of

the licensee or his nowkarnama holder. In the present case, the sample was drawn in the presence of the Vice President of the society. Though the licence was issued in the name of the President, it is clear therefrom that the President was merely representing the society and therefore, the presence of any Managing Committee Member would be equivalent to that of the licensee. Therefore, the request made by the petitioner society was beyond time and there are no grounds made out to interfere with the order of rejection dated 10.02.2016. The prayer in this regard is liable to be rejected.

On the above analysis, the writ petition is disposed of directing the Prohibition and Excise Superintendent, Nalgonda, the second respondent, to complete the enquiry initiated against the petitioner society expeditiously and in any event, not later than three weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

16th February, 2016
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