

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.33064 OF 2017

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise (Telangana) appearing for the official respondents.

2. This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue a writ, order or direction more particularly one in nature of Writ of Mandamus, declaring the action of the 3rd respondent in rejecting petitioner's application without putting the petitioner's coin into the drawal box along with other applicants on the ground of non-presence of petitioner at the time of drawal of lots in respect of Gazette (Shop) No.55, Location Division - 49, Warangal Urban District is wholly illegal, arbitrary, contrary to the Rule 12 of Telangana Excise (Grant of License of Selling By Shop and Conditions of License) Rules, 2012 and for a consequential order directing the 3rd respondent to conduct a drawal of lots afresh in respect of Gazette (Shop) No.55, Location Division - 49, Warangal Urban District by setting aside the allotment made in favour of 5th respondent Gazette (Shop) No.55, Location Division - 49, Warangal Urban District holding that the procedure adopted by the 3rd respondent is wholly illegal and contrary to Rule 12 of Rules.”

3. According to the learned counsel for the petitioner, the impugned action of the respondent authorities is in total violation of the provisions of the Telangana Excise Act, 1968 and the Rules framed there under. It is the further submission of the learned counsel that the respondent authorities grossly erred in rejecting

the application of the petitioner herein by resorting to wrong interpretation of the provisions of law.

4. On the other hand, it is submitted by the learned Government Pleader that the provisional licence is already granted in favour of the unofficial respondent and as against the impugned action, an appeal lies before the Deputy Commissioner of Prohibition and Excise under Section 63 of the Telangana Excise Act, 1968.

5. In view of the availability of said alternative remedy of appeal before the Deputy Commissioner of Prohibition and Excise, this Court is not inclined to entertain this writ petition filed under Article 226 of the Constitution of India. However, it is open for the petitioner herein to file an appeal before the concerned Deputy Commissioner of Prohibition and Excise and if any such appeal is filed, the same shall be considered and appropriate action shall be taken in accordance with law.

6. With the above observation, the Writ Petition is disposed of. There shall be no order as to costs.

7. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 04.10.2017
AMD

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