

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 14379 OF 2017

ORDER :

The proceedings dated 10.02.2017 passed by the 2nd respondent Deputy Commissioner of Prohibition & Excise, Nalgonda Division, by which, as an interim measure, the petitioner was directed to furnish the FDR for Rs.1,88,480/- for release of 152 bags of Alum seized in connection with Crime No. 76 of 2015 dated 01.09.2016, is challenged before this Court.

Learned counsel for the petitioner submits that the condition imposed by the 2nd respondent is onerous. He further submits that the petitioner being a registered kirana merchant and carrying on the business lawfully, the direction to furnish the FDR for the value of the seized stock is arbitrary and illegal and he prayed for modification of the said condition.

Learned Government Pleader for Prohibition & Excise opposes the prayer made by the petitioner and submits that it is only by way of an interim measure to facilitate the petitioner to avail the benefit of the material seized, the conditional order has been passed exercising the discretion vested in the 2nd respondent, in terms of Section 46 of the Andhra Pradesh Excise Act, 1968. The discretion exercised by the Deputy Commissioner needs no interference in the extraordinary and the discretionary jurisdiction of this Court, the learned Government Pleader asserts.

Having considered the respective submissions, this Court is in agreement with the one made by the learned Government Pleader, inasmuch as the impugned proceedings were issued as an

interim measure, in exercise of the statutory power of inquiry under Section 34 read with Section 46 of the 1968 Act. The inquiry is yet to be concluded and if the petitioner desires to have the benefit of the stock, as an interim measure, he has to comply with the condition imposed. In the present case, the condition is not arbitrary and illegal as Section 46 of the Act empowers the authority to confiscate the seized stock. In those circumstances, I see no reason to interfere with the discretionary order made by the 2nd respondent.

The Writ Petition is therefore, dismissed. No costs.

Consequently, the miscellaneous Applications, if any shall also stand dismissed.

21st April 2017

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CHALLA KODANDA RAM, J

