

HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION NO.9147 OF 2016

ORDER:

1. This writ petition is filed by the petitioner-Flat Owners Welfare Association seeking to declare that the action of respondents-2 and 3 in issuing license and granting permission to the 4th respondent for sale of liquor in premises bearing Door No:3-4-32, Mallapur Main Road, Mallapur, Hyderabad, Ranga Reddy District is in violation of the rules and notification under A.P. Excise (Grant of License of Selling by Shop and Conditions of License) Rules 2012, and to quash the same.

2. The case of the petitioner-Welfare Association is that they are the residents in the Sai Towers Complex. In and around the multi storied building, most of the residents are the employees and self employed one, whose children are under different age groups. There is a school on one side of the said apartment. A hospital is also there on the other side of the apartment. There is a bus stop near the said apartment. The 4th respondent was issued license by the 3rd respondent on 26.9.2015 for selling Indian Made Foreign Liquor for the period from 1.10.2015 to 30.9.2017 and for running a Wine shop in the name and style of Aaradhya Wines. In pursuance of the same, the 4th respondent opened the wine shop and is carrying on business of selling liquor by allotting a sitting room for the consumers in the Cellar portion of the said Sai Towers. On that, the members of the petitioner-Welfare Association submitted a representation, dated 28.9.2015 to the Exercise and Prohibition Circle Inspector, Uppal, Hyderabad. But, no action has yet been taken. Hence, the present writ petition is filed.

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3. The 3rd respondent filed a counter-affidavit and additional counter-affidavit contending inter alia that on the representation of the petitioner, the Station House Officer, Uppal, Ranga Reddy District conducted a thorough enquiry and reported that with regard to the Techno school situated by the side of the Sai Towers, it is not a recognized school, and the distance between Aashritha Hospital and the shop of the 4th respondent is 215 meters. It is further contended that after the enquiry conducted by the Assistant Prohibition and Excise Superintendent, it was recommended for the issuance of license in favour of the 4th respondent, and therefore, the allegations made against the 4th respondent are false and untenable and the writ petition is liable to be dismissed.

4. The 4th respondent also filed a counter-affidavit contending that the allegations made against him are false and he has not violated any conditions of license. At the instance of rival traders, the petitioner filed this writ petition.

5. Heard and perused the material available on record.

6. The fact that remains undisputed is that the shop of the 4th respondent is existing in the cellar of the apartment in question wherein 30 families are stated to have been residing. There is a hospital near the subject premises. There is also a school on one side of the subject premises. On perusal of the material on record, it is obvious that the distance between the shop of the 4th respondent and the Hospital in question is 215 meters. According to the 3rd respondent, the school is not a recognized school. It is pertinent to note that irrespective of the fact whether it is a recognized school or not, the pupil, who are studying in the said school, are the children. Therefore, it can be said that the action of respondents

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Nos.2 and 3 in granting license to the 4th respondent is not in accordance with the Rules. However, as the tenure of the license that was granted to the 4th respondent from 1.5.2015 to 30.9.2017 is going to be expired by the end of September, 2017, it is just and proper to direct the official respondents not to renew the license of the 4th respondent and also not to grant any license to anybody in future to run the Wine shop in the subject premises.

7. Accordingly, this writ petition is disposed of. The official respondents are directed not to renew the license granted to the 4th respondent on expiry of present license and not to grant any license to anybody in future, to run the Wine shop in the premises in question. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.



Justice Raja Elango

Dated:11.9.2017

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