

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.17456 OF 2017

ORDER:

The petitioner filed the present Writ Petition seeking to declare the action of the 2nd respondent in dismissing the appeal vide order, dated 01.11.2016, in Cr.No.5431/ 2016/ CPE/ TS/ D1, upholding the confiscation orders passed by the 3rd respondent, dated 07.06.2016, in Cr.No.207/ 2016/ P&E/ B4, though the petitioner has expressed his readiness to pay the value of the confiscated stocks, as arbitrary and illegal and consequently set a side the same.

Heard and perused the material available on record.

The case of the petitioner is that the 4th respondent along with his staff surprised the godown of the petitioner and without perusing the bills, seized the available stocks i.e. 396 kgs., of black jaggery and 12000 kgs., of alum and registered a case in Crime No.174/ 2016.

Learned Counsel for the petitioner submitted that the petitioner approached the 3rd respondent – Deputy Commissioner Prohibition and Excise, Warangal, for release of the said stock, but the 3rd respondent without issuing any show cause notice and without affording reasonable opportunity of being heard, passed the confiscation order, dated 07.06.2016. Challenging the same, the petitioner filed appeal before the 2nd respondent – commissioner of Prohibition and Excise, Hyderabad, and the 2nd respondent rejected the said appeal on the ground that the appeal was time-barred. Aggrieved by the said order, the present writ petition is filed.

Admittedly, black jaggery and alum seized from the possession of the petitioner in the above referred crime are not prohibited articles under any law and their possession is also not barred by the provisions of any Statute.

Considering these circumstances, interim custody of the stock i.e 396 kgs., of black jaggery and 12000 kgs., of alum seized in the above referred crime shall be entrusted to the petitioner on petitioner executing Bank Guarantee for a sum of Rs.50,000/- (Rupees fifty thousand only) to the satisfaction of the 2nd respondent – Commissioner, Prohibition & Excise, Hyderabad.

Accordingly, the Writ Petition is disposed. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

June 02, 2017

KTL

RAJA ELANGO, J



