

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.33195 OF 2017

ORDER:

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

2. A notice bearing Rc.No.328/2017/B3, dated 28.09.2017, issued by the Prohibition and Excise Superintendent, Machilipatnam, Krishna District/respondent No.4 herein calling upon the petitioner herein to submit his explanation to show cause as to why the shifting of the A-4 shop of the petitioner herein should not be ordered, is under challenge in the present writ petition.

3. The petitioner herein is the licensee of A-4 shop at Avanigadda Village and Mandal, Krishna District. According to the learned counsel for the petitioner, the impugned notice is highly illegal, arbitrary and is violative of Articles 14 and 19(1)(g) of the Constitution of India. It is the further submission of the learned counsel that the petitioner herein, having invested lakhs of rupees for starting the business pursuant to the licence granted by the authorities, now cannot be asked to shift the premises. It is also the submission of the learned counsel that so long as the licence granted in favour of the petitioner herein continues to be in force, the respondents cannot interfere with the business activities of the petitioner herein.

4. On the other hand, it is submitted by the learned Government Pleader that the questioned notice is only a show cause notice and it is open for the petitioner herein to submit a

suitable explanation to the show cause notice raising all the grounds and if the said explanation is submitted by the petitioner herein, the same will be considered by the respondents and appropriate action will be taken strictly in accordance with law.

5. There is absolutely no dispute with regard to the reality that respondent No.4 granted A-4 licence in favour of the petitioner herein on 25.09.2017 for a period of two years commencing from 01.07.2017 to 30.06.2016 in respect of premises bearing D.No.12-121, Challapalli Village and Mandal. A perusal of the impugned notice discloses that respondent No.4 issued the said notice obviously because of certain objections raised by the local residents of Challapalli Village. A reading of the notice clearly discloses that it is only a show cause notice asking the petitioner herein to submit his explanation for the said objections. Since the impugned notice is only a show cause notice, as rightly pointed out by the learned Government Pleader, it is always open for the petitioner herein to raise all the objections for the show cause notice by way of an explanation to the respondents. Since the said opportunity is available to the petitioner herein, this Court is not inclined to grant any relief in the present writ petition.

6. Having heard the learned counsel for the petitioner and the learned Government Pleader and in the facts and circumstances of the case, this Court deems it appropriate to dispose of the writ petition by keeping it open to the petitioner herein to submit his explanation to the impugned show cause notice, dated 28.09.2017, within a period of two (2) weeks from the date of receipt of a copy of this order and if such an explanation is offered by the petitioner herein within the time stipulated, the same shall be considered

and further action shall be taken strictly in accordance with law after giving an opportunity of hearing to the petitioner herein.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

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

JUSTICE A.V.SESHA SAI

Date : 05.10.2017
AMD



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