

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.29074 of 2017

ORDER:

Heard learned counsel for the petitioners and learned Government Pleader for Prohibition and Excise (Telangana) for respondents 1 to 3 and learned Government Pleader for ITDA (Telangana) for respondent No.4.

2. Elaborating the averments in the affidavit filed in support of the writ petition, it is contended by the learned counsel for the petitioner that pursuant to the 73rd Amendment to the Constitution of India, in exercise of the powers conferred under Section 268 (1) read with Sections 242-A to 242-I under Part VI-A of the A.P. Panchayat Raj Act, 1994, the State Government made the rules called "The A.P. Panchayats Extension to Scheduled Areas (PESA) Rules, 2011". Rule 8 of the said Rules reads as under:

"8. Powers and functions of Gram Panchayats and Mandal Parishads:-

(I) Excise:

(a) The Department concerned shall inform its intention to establish a unit for manufacturing liquor in a village to the Gram Sabha concerned for its opinion on the production or manufacture of liquor in the said village. Gram Sabha will convey its opinion in the form of a resolution within four weeks. Based on the resolution of the Gram Sabha the department concerned shall act upon about the production/manufacture of liquor in the village under intimation to Gram Sabha concerned.

(b) The Gram Sabha shall be consulted before the grant of any license to open liquor shop in the village. Gram Sabha will convey its opinion in the form of resolution within four weeks. The license shall be granted to local scheduled tribe only.

(c) The Department concerned shall issue a speaking order for granting or not granting any license to open liquor shop/bar in the village under intimation to the Gram Sabha concerned. The Gram Sabha resolution shall be binding and final.

(d) The Gram Sabha shall determine the quantity of traditional liquor that may be brewed/produced by the Scheduled Tribes living in a village for their consumption but not for sale having regard to the traditions, customs relating to consumption of local

liquor during marriage and other social and religious ceremonies and their cultural identity.”

3. While referring to the above said Rules, it is submitted by the learned counsel for the petitioner that the respondents – authorities are required to adhere to the said Rules while granting licences under the A.P. Excise Act, 1968 and the Rules framed thereunder.

4. When the matter is taken up, the learned Government Pleader for Prohibition and Excise (Telangana), on written instructions, submitted that above said Rules framed by the State Government would be strictly adhered to by the respondents – authorities while granting licences under the A.P. Excise Act, 1968 and the Rules framed thereunder.

5. The said statement is placed on record and accordingly the writ petition is disposed of. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

Date: 13.09.2017

Note: Issue CC by 15.09.2017
B/o. TJMR

A.V. SESA SAI, J