

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

WRIT PETITION No.30044 of 2017

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Prohibition and Excise for respondent Nos.1 to 3, learned Government Pleader for Roads and Buildings for respondent Nos.4 to 6 and Sri Sameer Ahmed for respondent No.7.

The petitioner is a licensee of A4 shop bearing licence No.KD/157/2017-19, dated 01.07.2017, situated at D.No.5/105-2, Korrapadu Road, Proddatur, YSR Kadapa District. By way of the impugned notice bearing Rc.No.A/166/2017, dated 23.08.2017, the Prohibition and Excise Superintendent, Proddatur, 3rd respondent herein, informed the petitioner to shift the said retail liquor shop from the existing premises i.e., from D.No.5/105-2, to another premises within the notified area i.e., 2 kms of Proddatur Municipality.

According to the learned counsel for the petitioner, the impugned action on the part of the Prohibition and Excise Superintendent, Proddatur, is highly illegal, arbitrary and violative of Articles 14 and 19(1)(g) of the Constitution of India. It is further submitted that without being preceded by any notice and opportunity of hearing to the petitioner, the 3rd respondent issued the notice under challenge, as such,

the same is liable to be set aside on the ground of violation of principles of natural justice.

On the contrary, it is submitted by the learned Government Pleader that there is no illegality in the impugned action and as such the present writ petition is not maintainable and the petitioner is not entitled for any relief under Article 226 of the Constitution of India.

It is submitted by the learned counsel for respondent No.7 that the impugned notice does not suffer from any infirmity and the action of the 3rd respondent cannot be faulted, as the same is strictly in accordance with law and the instructions of the Government from time to time.

A perusal of the impugned notice, as rightly pointed out by the learned counsel for the petitioner, does not indicate any issuance of show cause notice prior to resorting to the impugned action. In the considered opinion of this Court, the said action on the part of the respondent authorities is a patent violation of principles of natural justice. It is well settled and established law that any action on the part of the authorities, which has civil consequences, is required to be preceded by notice and opportunity of hearing to the persons affected by such action. In the instant case, the same is followed in breach. Therefore, on this ground alone, the impugned notice is liable to be set aside and the matter requires re-consideration by the respondent authorities in accordance with law.

For the aforesaid reasons, the writ petition is allowed, setting aside the notice, dated 23.08.2017, issued by the 3rd respondent. It is open for the official respondents to issue show cause notice and pass orders, after giving opportunity of hearing to the petitioner as well as respondent No.7. No order as to costs.

Miscellaneous petitions, if any, shall also stand disposed of.

Date: 06.09.2017
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A.V.SESHA SAI, J

