

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

WRIT PETITION No.28484 of 2017

Date: 24-08-2017

BETWEEN:

Addgarla Satyanarayana

...Petitioner.

AND

The State of A.P.,
rep by its Principal Secretary,
Revenue (Prohibition & Excise) Department,
Velgapudi, Amaravathi,
Guntur District and others.

...Respondents.



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ORDER:

This writ petition is filed by the petitioner for the following relief:

“.....to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in allowing the 7th respondent to continue the M/s.Lavanya Wines with permit room D.No.12-213, adjacent to Railway Gate, 16th Ward, Kakaluru Village, Krishna District without shifting the shop from the residential area, temples, school and causing great inconvenience to the women and students and residents of 16th Ward, Kaikaluru Village, Krishna District is illegal, arbitrary and violation of the Principles of natural justice and contrary to Articles 14 & 21 of the Constitution of India.”

2. Heard the learned counsel for the petitioner and learned Government Pleader for Prohibition & Excise Department appearing for respondents.

3. According to the petitioner, he submitted a representation to the third respondent-District Collector on 24-07-2017 for removal of Wine Shop from the residential area of 16th Ward, Kaikaluru Village, Krishna District in Meekosam Praja Vedika, held on 24-07-2017. The sum and substance of the case of the petitioner herein is that the official respondents herein granted licence in favour of the unofficial respondents affecting the public interest in the residential locality.

4. When the writ petition is taken up for hearing, a preliminary objection is taken by the learned Government Pleader contending that as against the order of the Prohibition & Excise Superintendent, Machilipatnam, Krishna District, a regular statutory appeal lies to the Deputy Commissioner of Prohibition & Excise under the provisions of Section 63 of the A.P. Excise Act. Without availing the said remedy, the present writ petition is directly filed before this Court. It is further submitted that since the number of factual controversies are raised in the writ petition, the same cannot be scrutinized under Article 226 of the Constitution of India.

4. For the aforesaid reasons, the writ petition is disposed of keeping it open for the petitioner herein to file a statutory appeal before the Deputy Commissioner of Prohibition & Excise, if he advised to do so, as against the orders impugned.

5. Consequently, Miscellaneous Petitions, if any pending in this Writ Petition, shall stand closed. No order as to costs.

Date: 24-08-2017
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JUTICE A.V.SESHA SAI