

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

WRIT PETITION No.29559 of 2017

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Prohibition and Excise (A.P) for respondent Nos.1 to 4.

2. Notice bearing Rc.No.279/2017/A2, dated 26.08.2017, issued by the fourth respondent asking the petitioner to show cause as to why necessary orders should not be passed for shifting of his A-4 shop from the existing place to another place, is under challenge in the present writ petition.

3. It is stated in the affidavit filed in support of the writ petition that the petitioner is a licensee of A-4 shop bearing No.158/2017-19, dated 28.07.2017, carrying on business in the name and style "M/s.Jolly Wines", Kokanarayanapalem Village, Guduru Mandal, Krishna District. On the basis of a representation submitted by one Mr.G.Pavan Kumar, Chief Secretary of Dhatha Karunya Trust of Guduru Mandal, who is running an Ashram, the fourth respondent issued the impugned notice. It is also stated that the shop of the petitioner was locked on 26.08.2017 by the official respondents.

4. It is submitted by the learned counsel for the petitioner that the respondents granted licence only after the petitioner complied with all the statutory requirements and, during the subsistence of the said licence period, the fourth respondent grossly erred in issuing the impugned notice. It is also submitted that said Ashram does not fall under any one of the contingencies, as stipulated under Rule 25(1) of the A.P. Excise (Grant of Licence of Selling by Shop and Conditions of Licence) Rules, 2012, and the same is 400 meters away from the shop premises. It is also submitted that having issued the show

cause notice, the official respondents should have waited for submission of the explanation by the petitioner before locking the premises, when the licence admittedly is in force.

5. Having heard the learned counsel for the petitioner and the learned Government Pleader, this Court deems it appropriate to dispose of the present writ petition, by permitting the petitioner to submit his explanation to the impugned show cause notice dated 26.08.2017, within a period of one week from the date of receipt of a copy of this order. If any such explanation is submitted by the petitioner within the time stipulated, the same be considered and appropriate orders be passed thereon. It is also made clear that so long as the licence granted in favour of the petitioner continues to be in force, the official respondents cannot restrain him from carrying on the business in terms of the said licence.

6. With the above observations, the writ petition is disposed of. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

Date: 01.09.2017
TJMR

A.V. SESA SAI, J