

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

WRIT PETITION No.30986 OF 2017

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise for the respondents.

2. The petitioner herein is a licence of A.4 shop. The Prohibition and Excise Superintendent, Machilipatnam, Krishna District, issued a show cause notice bearing Rc.No.112/2017/A1, dated 30.08.2017, calling upon the petitioner to show cause as to why the licence of the petitioner herein should not be suspended for the alleged violation of Rule 35 of the Andhra Pradesh Excise (Grant of licence of selling by shop and conditions of licence) Rules, 2012 (for short, 'the Rules') and condition Nos. 10 and 12 of the A.4 licence conditions.

3. The Prohibition and Excise Superintendent subsequently vide proceedings Rc.No.112/2017/A1, dated 11.09.2017, suspended the licence of the petitioner herein, pending enquiry.

4. According to learned counsel for the petitioner, the impugned action on the part of the respondent authorities is highly illegal, arbitrary and opposed to the very spirit and object of the provisions of Andhra Pradesh Excise Act, 1968 and the Rules framed there under. It is further submitted by learned counsel that the conclusion of the Prohibition and Excise Superintendent that the petitioner herein violated Rule 35 of the above Rules and condition Nos. 10 and 12 of the A.4 licence conditions is highly erroneous and contrary to above said provisions of law. It is

further stated by learned counsel that in fact, on 02.09.2017, the petitioner herein submitted an explanation to Excise Superintendent, Machilipatnam through Station House Officer, Prohibition & Excise Police Station, Gudiwada,

5. On instructions, it is submitted by learned Government Pleader, that in fact, the Prohibition and Excise Inspector received the said explanation of the petitioner herein, but within the time, the same could not be sent to the office of the Prohibition and Excise Superintendent.

6. Having heard the learned counsel for the petitioner and learned Government Pleader, this Court deems it appropriate to remit the matter for fresh consideration and passing order afresh by Prohibition and Excise Superintendent in the facts and circumstances of the case by considering the explanation offered by the petitioner herein.

7. Accordingly, the Writ Petition is allowed, setting aside the order passed by the Prohibition & Excise Superintendent vide Rc.No.112/2017/A1, dated 11.09.2017, and the matter is remanded to the 4th respondent for consideration and pass appropriate orders in accordance with law, after considering the explanation offered by the petitioner herein on 02.09.2017 and after giving opportunity of hearing to the petitioner herein.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

SEPTEMBER 19, 2017

Note:
Issue C.C by 21.0.2017.
(B/o) YVL

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



WRIT PETITION No.30986 OF 2017

Date: 19.09.2017

YVL