

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE T.RAJANI**

WRIT APPEAL NO.527 OF 2017 AND

WRIT PETITION NO.12425 OF 2017

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard Sri O. Manohar Reddy, learned counsel for the appellants-writ petitioners and the learned Government Pleader for Prohibition and Excise. While this appeal is preferred against the interlocutory order passed by the learned Single Judge in WP.MP. No.15435 of 2017 in WP. No.12425 of 2017 dated 07.04.2017, both Sri O. Manohar Reddy, learned counsel for the appellants-writ petitioners, and the learned Government Pleader for Prohibition and Excise would agree that the Writ Petition itself be disposed of.

Facts, to the limited extent necessary, are that the petitioners were granted A-4 licenses in Nagiri Town for the period from 01.07.2015 to 30.06.2017. Out of the 15 shops, for which a notification was issued in the year 2015 for grant of licenses for a period of two years, only 9 shops were allotted and the other six shops remained undisposed. The Supreme Court, by its order in December 2016, had directed that all liquor shops, allotted within 500 meters of National Highways, should be closed by 31.03.2017. Consequently, the Government of Andhra Pradesh issued a notification on 24.03.2017 inviting applications for allotment of 15 A-4 retail outlets in Nagiri town. The last date for receipt of applications was prescribed as 30.03.2017, and the shops were required to be allotted by drawal of lots in the afternoon of 31.03.2017. Both the petitioners, who were allotted A-4 shops for

the excise period 01.07.2015 to 30.06.2017, also participated in the drawal of lots as their license period, in view of the order of the Supreme Court, was to come to end on 31.03.2017. As both the petitioners were the only applicants for the two shops, they were selected for allotment of these shops along with 13 others for the remaining 13 A-4 shops. The Supreme Court, by its order dated 31.03.2017, directed that A-4 license shops, for which license were granted earlier, be permitted to continue till the end of excise period i.e., 30.06.2017. Consequently, all the 9 A-4 retail shops licencees including both the petitioners, for which licenses were granted on 01.07.2015, continued to run their shops till 30.06.2017.

From out of the 15 A-4 retail shops, for which applications were received and lots were drawn on 31.03.2017, the petitioners were the only two who had licenses in their favour to run the A-4 retail outlets till 30.06.2017. For the four undisposed A-4 retail outlets, licenses were granted from 01.04.2017 till 30.06.2019 (for 27 months), and for the 9 shops, for which the earlier licensees were entitled to continue till 30.06.2017, applicants, who were found successful in the drawal of lots held on 31.03.2017, were granted A-4 licenses from 01.07.2017 till 30.06.2019. The petitioners have invoked the jurisdiction of this Court complaining that, while all the other applicants who participated in the drawal of lots on 31.03.2017, were granted A-4 retail licenses from 01.07.2017, they alone have been discriminated against; the notification dated 24.03.2017 did not specify which of the 15 shops were allotted earlier from 01.07.2015 and which were undisposed; having chosen not to identify the undisposed A-4 retail outlets, it is

not open to the respondents to change the rules midway; and as the appellants-writ petitioners were found successful in the drawal of lots held on 31.03.2017, they should be granted A-4 retail outlet licenses for these two shops from 01.07.2017 till 30.06.2019.

It is not in dispute that the rules governing allotment provide that an A-4 retail outlet license can be granted for only one shop to one applicant. The applicants who were found successful in the drawal of lots held on 31.03.2017, with respect to the nine shops for which the lease period of the previous licensees was to expire on 30.06.2017, were granted license from 01.07.2017 onwards. With respect to four of the six undisposed shops, A-4 licenses were granted from 01.04.2017 itself in terms of the notification issued on 24.03.2017. It is only with respect to the petitioners' two shops could licenses not be granted from 01.04.2017 as, in terms of the earlier license agreement, both the petitioners were entitled to continue for a period of two years from 01.07.2015 till 30.06.2017.

While it does appear that the notification dated 24.03.2017 did not specify which of the 15 A-4 retail outlets in Nagari Town were undisposed, or whether the shops for which the petitioners had submitted their applications were undisposed A-4 retail outlets, it is not in dispute that six of the 15 A-4 retail outlets in Nagari Town stood undisposed during the drawal of lots, for allotment of shops, for the two year period 01.07.2015 to 30.06.2017, and for four of the six undisposed A-4 retail outlets, licenses were granted from 01.04.2017 onwards, initially upto 30.06.2019 and thereafter, pursuant to amendment of the relevant provisions, till 31.03.2019.

While the submission of Sri O. Manohar Reddy, learned counsel for the appellants-writ petitioners, that the petitioners, having been found successful in the drawal of lots, should not be deprived of being granted A-4 retail outlet licenses from 01.07.2017 cannot be said to be devoid of merit, the fact remains that granting such a relief would not only mean that two of these undisposed shops were required to be kept unallotted for a period of three months from 01.04.2017 to 30.06.2019, it would also mean that the petitioners were entitled to continue to exercise their right over two shops, without it being allotted to any other person. This would, in turn, mean that the petitioners were justified in exercising their right over two A-4 retail outlets in Nagiri Town during the intervening period 01.04.2017 to 30.06.2017 which would fall foul of the rules which prohibit one person from being allotted two shops. It is only because of the interim orders of this Court that these two A-4 retail outlets could not be allotted, from 01.04.2017 onwards, to others. While the petitioners could have given up their earlier licenses (granted for the period 01.04.2015 to 30.06.2017) from 01.04.2017 onwards and could have claimed allotment of the two new shops from 01.04.2017 along with others who were allotted the undisposed shops, they chose to continue with their existing licenses till 30.06.2017.

As we found some force in the submission of Sri O. Manohar Reddy, learned counsel for the appellants-writ petitioners, that the appellants may not be lucky this time around, if a after notification is issued afresh inviting applications for the period from 01.04.2017 to 30.06.2019, we asked the learned counsel to ascertain whether the appellants-writ petitioners were willing to

pay the license fee for the period from 01.04.2017 to 30.06.2017 as, in such an event, they would stand on par with the other licensees of the four undisposed A-4 retail outlets who were granted licenses from 01.04.2017 and, at the same time, no loss would be caused to the public exchequer.

Today Sri O. Manohar Reddy, learned counsel for the appellants-writ petitioners, on instructions, would request this Court to decide the Writ Appeal on its merits, and express the appellants-writ petitioners unwillingness to pay the license fees for the three month period from 01.04.2017 to 30.06.2017, as they did not carry on business in these two shops, during the said period. As that would amount to the petitioners retaining control over two A-4 retail outlets simultaneously, and would result in the State Government being deprived of its revenue which they would have otherwise received on granting licenses for these two shops from 01.04.2017 i.e for three months between 01.04.2017 to 30.06.2017, we see no reason to grant the petitioners the relief sought for in the Writ Petition.

While the petitioners may have lost out, despite their being found successful in the lottery held on 31.03.2017, this Court would also have to bear in mind the larger public interest of safeguarding public revenue. We see no justification in permitting the petitioners to retain their right over these two A-4 retail shops from 01.04.2017, and in paying license fees three months thereafter i.e., only from 01.07.2017 onwards, as that would result in loss of revenue, to the public exchequer, for the period 01.04.2017 to 30.06.2017.

Both the Writ Appeal and the Writ Petition are dismissed.
There shall be no order as to costs. Miscellaneous petitions, if any,
pending shall stand dismissed.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

3rd July 2017
RRB

