

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5311 OF 2017

ORDER:

This writ petition is filed challenging the action of the 2nd respondent in not receiving and passing any orders on the application dated 09.02.2017, submitted by the petitioner for grant of Prior Clearance for Establishment of 2B-Bars License for the year 2016-2017.

It is the case of the petitioner that the G.O.Ms.No.211 dated 01.10.2016, was issued wherein the guidelines with respect to grant of licenses have been notified. Pursuant to the guidelines issued therein on 07.11.2016, a notification was issued calling the tenders from the intending parties for establishing the bars in 88 locations. Last date for submission of applications was fixed as 18.11.2016. Considering the demonetization orders came into effect with effect from the mid night of 07.11.2016, the 2nd respondent had extended the time for receipt of applications till 10.12.2016.

The learned counsel for the petitioner submits that though the time was extended up to 10.12.2016, as on date 24 applications have been received by the respondent authorities. On account of the demonetization effect, the petitioner could not gather the money for submitting the application and in the process the petitioner could not apply the same within the time given in the notification. Learned counsel for the petitioner further submits that the petitioner had submitted representations on 04.2.2017 and 09.02.2017 to consider the application of the petitioner and process the same in terms of the G.O.Ms.No.211. By making a reference to Clause 2(v) of G.O.Ms.No.211, learned counsel for the petitioner submits that there is a discretion vested with the authorities to receive the applications as the said clause only governing in case of number of applications are more than the number of bars that

can be commonly opened and the selection can be made on the basis of the drawl of the lottery among all the eligible applicants. However, there is no bar on the respondent authorities to consider the applications received after the cut of date.

Learned Government Pleader for the respondents had placed on record the instructions received from the 2nd respondent Commissioner wherein the respondent authorities had opined that the notifications have been issued within the guidelines and rules and if the guidelines are required to be followed, it is not permissible to grant the licence whenever persons approach without following the rules and regulations.

Having considered the respective submissions, it is not necessary for this court to reiterate that the authorities are required to notify norms. In normal course, the Court will have to look into as to whether the authorities are permitted to do a particular act and not whether there is a prohibition in the rules and notified guidelines. In the present case on hand though there is some element of merit in the contention of the learned counsel for the petitioner that on account of 24 applications having been received as against 88 notified there may be need for the respondent authorities to consider other applications and at the same time the same will have to be done giving equal opportunities to others like petitioner who may also like to participate in the process.

In those circumstances, on a selective basis merely on account of the petitioner has approached this Court, a direction cannot be given to the respondent authorities to consider the application of the petitioner as that would be depriving similar opportunity to others who may not approach this Court under *bonafide* belief that there is no notification. In those circumstances, the relief sought in the present writ petition cannot be granted.

Accordingly, the writ petition is dismissed. No order as to costs.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dated:01.03.2017
Gk



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