

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.22202 of 2017

ORDER:

1. This writ petition is filed by the petitioner under Article 226 of the Constitution of India questioning the inaction of respondents Nos.3 and 4 in not conducting drawal of LOTs for selection for grant of 2B license in respect of G.SI.No.28-Gudur Nagara Panchayath, Kurnool District on par with other Bars, and also challenging the intimation given to the petitioner vide Rc.No.B/90/2017, dated 30.6.2017.

2. The case of the petitioner is as follows:

The 3rd respondent at the instance of the 1st respondent issued Gazette notification under Gazette No.2, Government of Andhra Pradesh, for online enrollment as to the registration and grant of licenses to the existing Bar Licensees eligible, and for online enrollment for Registration and grant of New Bar Licenses to sell Indian Made Foreign Liquors & Foreign Liquor, for the period from 1.7.2017 to 30.6.2022. Bars with Gazette Sl.Nos.1 to 28 are notified. Pursuant to the said notification, regarding G.SI.No.28, the petitioner made an application by paying the requisite fee. During the drawal of lots conducted on 30.6.2017, licenses were granted in respect of all the Bars notified as per the procedure, except in respect of Bar of Gudur Nagara Panchayath i.e., G.SI.No.28, even though the petitioner is entitled for the same. While so, the 3rd respondent gave the impugned intimation to the petitioner on the same day informing that drawal of lots for grant of 2 B license in respect of G.SI.No.28 is postponed as per the orders of the District Collector & District Magistrate, Kurnool, and that re-notification will be issued for the same. Aggrieved by the same, the petitioner filed this writ petition.

3. The 3rd respondent filed a detailed counter stating that regarding G.Sl.No.28, Gudur Nagara Panchayat four applications were received through online. The petitioner came up for verification. Rest of the three applicants did not come up for verification and therefore, their applications were cancelled. On that, the other applicants approached the District Collector explaining their grievance for obtaining trade licenses from Gudur Nagara Panchayat authorities. The said applicants made a complaint alleging that even though they approached the authorities concerned for payment of trade license tax, no person was available to collect the tax and as such, the trade licenses were not issued in time and therefore, they are unable to file their applications. They also made a request to grant time. On such request, an enquiry was conducted and thereafter, on the instructions of the District Collector, the drawal of lots was postponed.

4. Heard and perused the material available on record.

5. On 6.7.2017, while adjourning the matter on the request made by the Assistant Government Pleader for Excise for getting instructions, this Court granted interim stay of all further proceedings.

6. From the material available on record, it is evident that regarding G.Sl.No.28 Gudur Nagara Panchayat, four applications were received and one of such application is that of the petitioner. His application was verified. The remaining applications were treated as cancelled. On such cancellation, the said applicants approached the District Collector expressing their grievance. They also made a petition alleging that they are unable to obtain trade licenses due to problem at the office of Gudur Nagara Panchayat. On enquiry made by the Deputy Commissioner, Prohibition and Excise, Kurnool, upon the instructions given by the District

Collector, Kurnool, it is found that the applicants have approached the Gudur Nagara Panchayat office for acquiring trade license, and that the employees of the office while informing that the Municipal Commissioner was on leave for two days, instructed them to apply as per procedure and to come on 29.6.2017. On 29.6.2017, when they approached the Municipal Commissioner, he ordered the Sanitary Inspector to verify the documents and process the applications. The Sanitary Inspector endorsed on three applications and directed the applicants to make payment. When they approached the payment section, nobody was available. They waited upto 5 p.m., But they could not make the payment as the concerned employees did not return. Therefore, the applicants were unable to obtain the trade license in time. As such, the applicants prayed before the authorities concerned for extension of time for producing the trade license, and for affording an opportunity to them to participate in selection process. The enquiry clearly discloses that three applicants could not pay the trade license tax in the office of the Municipal Commissioner due to non-availability of the employee concerned. On that ground, all the applicants prayed for extension of time for producing the trade licenses so as to enable them to participate in the selection process. Under these circumstances, the impugned intimation was issued to the petitioner.

7. In the above background of the matter, this Court is of the view that but for the laches on the part of the officials concerned, the right of the other applicants cannot be infringed disentitling them to participate in the selection process and as such, there are no grounds to interfere with the action of the respondents in postponing the drawal of lots and intimating the same to the petitioner. However, it is made clear that if the re-notification is issued, the application of the petitioner, which was verified

earlier in pursuance of the earlier notification by the authorities concerned for grant of 2B license in respect of G.Sl.No.28, shall be treated as that of the application for such re-notification or for the ensuing drawal of lots.

8. Accordingly, this Writ Petition is disposed of. No order as to costs. Consequently, the interim order dated 6.7.2017 shall stand vacated.

RAJA ELANGO, J

Date: 11th September, 2017
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