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

WRIT PETITION No.28556 of 2017

Date: 24-08-2017

BETWEEN:

G. Sumathi

...Petitioner.

AND

The State of A.P.,
Rep by its Principal Secretary,
Revenue (Excise-II) Department,
Secretariat, Velagapudi,
Amaravathi, Guntur District and others.

...Respondents.

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

WRIT PETITION No.28556 of 2017

ORDER:

Heard Sri O. Manohar Reddy, the learned counsel the petitioner and learned Government Pleader for Prohibition & Excise Department appearing for respondents.

2. In the present petition challenge is to the order passed by the Prohibition & Excise Superintendent, Gajuwaka, Visakhapatnam District vide Rc.No.212/2017/A5 dated 19-08-2017. Petitioner herein is the licensee of A4 liquor shop, running business in the name and style of M/s. Sudha Wines at D.No.16-54/1, P.M Palem, Madhuravada, Visakhapatnam. The Excise Superintendent-4th respondent herein issued a show cause notice bearing Rc.No.212/2017/A5, dated 29-07-2017, calling upon the petitioner to show cause as to why the licence granted in favour of the petitioner herein should not be suspended for allegedly being in illegal possession of IML stocks. In response to the said show cause notice, petitioner herein submitted explanation on 19-08-2017. The Excise Superintendent by way of proceedings vide Rc.No.212/2017/A5, dated 19-08-2017, suspended the licence of the petitioner herein. Broadly there are two contentions raised by the learned counsel for the petitioner in the present writ petition, they are:

(1) The Excise Superintendent-4th respondent herein passed the order under challenge without indicating the period of suspension and the same cannot be sustained; and

(2) 4th respondent herein did not consider the explanation offered by the petitioner herein in response to the show cause notice.

3. A perusal of the order under challenge clearly discloses that the fourth respondent-Excise of Superintendent in the impugned order did not stipulate any period of suspension. It is also a fact that having called for the explanation and having received the same, the 4th respondent did not assign any reasons for disbelieving the explanation offered by the petitioner herein nor considered the validity of the said reasons in the explanation. In the considered opinion of this Court, the impugned order is liable to be set aside on the above two grounds. This Court is of the opinion that the matter requires reconsideration by the Excise Superintendent in the light of the submissions made by the learned counsel for the petitioner herein.

4. For the aforesaid reasons, writ petition is allowed setting aside the order passed by the 4th respondent-Prohibition and Excise Superintendent vide Rc.No.212/2017/A5 dated 19-08-2017 and the matter is remitted to the 4th respondent for fresh consideration in accordance with law by giving opportunity to the petitioner herein.

5. Consequently, Miscellaneous Petitions, if any pending in this Writ Petition, shall stand closed. No order as to costs.

JUTICE A.V.SESHA SAI

Date: 24-08-2017
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