

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.33198 OF 2017

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise (Telangana) appearing for the official respondents.

2. This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue any writ, order or direction more particularly one in the nature of writ mandamus declaring the action of the official respondents in granting license over the property bearing No.1-1-9 in Plot No.9 and 10, Survey No.11/1, Ambedkarnagar, Habsiguda, Hyderabad basing on the lease deed executed by the Respondent No.5 without having any entitlement, is illegal, arbitrary, in violation of Excise and Prohibition Rules 2012, in violation of natural justice and in violation of Articles 14 and 21 of the Constitution of India and consequently direct the official Respondents to cancel the license issued by the official respondents to run retail wine shop over the property bearing No.1-1-9 in Plot No.9 and 10, Survey No.11/1, Ambedkarnagar, Habsiguda, Hyderabad by considering the petitioner's representation dated 26-09-2017.”

3. When the matter is taken up, it is submitted by the learned Government Pleader that the District Prohibition and Excise Officer, Malkajgiri, Medchal District granted provisional licence bearing No.32, dated 30.09.2017, in favour of the unofficial respondent herein and it is open for the petitioner herein to question the validity of the same, if he is aggrieved, by way of filing

an appeal before the Deputy Commissioner of Prohibition and Excise, Ranga Reddy District, Hyderabad/respondent No.3 herein.

4. Section 63 of the Telangana Excise Act, 1968 reads as under:-

“Appeals:- (1) Any person aggrieved by an order passed by any officer, other than the Commissioner or Collector under the Act, may, within forty five days from the date of communication of such order, appeal to the Deputy Commissioner;

(2) Any person aggrieved by an order passed by the Deputy Commissioner or Collector under the Act, may, within sixty days from the date of communication of such order, appeal to the Commissioner”.

In view of the availability of said alternative remedy of appeal before the Deputy Commissioner of Prohibition and Excise, this Court is not inclined to go into the merits of the matter.

5. In view of the above, the Writ Petition is disposed of, keeping it open for the petitioner herein to file an appeal against the licence granted in favour of the unofficial respondent herein before respondent No.3 herein within a period of one week from the date of receipt of a copy of this order and if any such appeal is filed before respondent No.3, the same shall be considered and appropriate orders be passed strictly in accordance with law after giving an opportunity of hearing to all the stakeholders within a period of three (3) weeks.

6. With the above observation, the Writ Petition is disposed of. There shall be no order as to costs.

7. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 05.10.2017
AMD



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