

**THE HONOURABLE SRI JUSTICE A.V.SESHA SAI**

**WRIT PETITION No.33223 OF 2017**

**ORDER:**

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

2. An order passed by the Prohibition and Excise Superintendent, Gajuwaka, Visakhapatnam District/respondent No.3 herein *vide* proceedings in Rc.No.283/2017/A1, dated 26.09.2017, cancelling the licence of the petitioner herein under Section 31(1)(b) of the A.P. Excise Act, 1968 is under challenge in the present writ petition.

3. Respondent No.3 issued a show cause notice *vide* Rc.No.283/2017/A1, dated 18.09.2017, calling upon the petitioner to show cause as to why his licence should not be cancelled on the ground that the petitioner shop sold a brandy bottle for the rate more than the M.R.P. rate. In response to the same, the petitioner herein submitted his explanation pleading innocence of the same. Thereupon, respondent No.3 passed the impugned order cancelling the licence of the petitioner herein.

4. According to the learned counsel for the petitioner, the impugned action on the part of the respondents is highly illegal, arbitrary and not in consonance of the A.P. Excise Act, 1968 and the Rules framed there under.

5. On the other hand, it is submitted by the learned Government Pleader that in view of the admissions made by the petitioner herein in the explanation, there is absolutely no illegality

in the impugned action. It is also the submission of the learned Government Pleader that as against the impugned order of cancellation, a statutory appeal is provided under Section 63 of the A.P. Excise Act, 1968, as such, the present writ petition is not maintainable.

6. Section 63 of the A.P. 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”.

The above provision of law clearly shows that any order passed by the Prohibition and Excise Superintendent is appealable before the Deputy Commissioner of Prohibition and Excise.

7. In view of the same and in the facts and circumstances of the case, this Court is not inclined to entertain this writ petition filed under Article 226 of the Constitution of India. However, it is open for the petitioner herein to file a statutory appeal before the Deputy Commissioner of Prohibition and Excise against the order impugned.

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

9. 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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AMD