

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.456 OF 2017

DATED : 06.01.2017

Between :

M/s.Pernod Ricard India (P) Limited,
Sub-lessee of M/s.Gwalior Alcobrew Pvt.Ltd.,
Rairu Farm, Agra Mumbai Road, Gwalior,
Having its registered office at 104, Ashoka Estate,
Barakhamba Road, New Delhi-110001,
Rep., by its Authorized Signatory,
Mr.Y.Srinivasa Reddy.

.. Petitioner

And

State of Telangana,
Rep., by its Principal Secretary,
To Government, Prohibition & Excise Department,
Telangana Secretariat, Hyderabad & others.

.. Respondents



This court made the following :

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ORDER :

Petitioner challenges the order dated 15.12.2016 by which the Commissioner of Prohibition and Excise, blacklists the petitioner from future participation of contracts quoted by Telangana State Beverages Corporation Limited.

2. Heard learned Senior Counsel appearing for the petitioner and learned Government Pleader for Prohibition and Excise for 2nd respondent and learned Standing counsel for the Telangana State Beverages Corporation Limited, for 3rd respondent.

3. In addition to raising several other contentions, learned Senior Counsel, primarily contended that the order impugned in the writ petition is liable to be set aside on the following grounds :

(i) That the Board of 3rd respondent-Corporation is the supreme Board and Managing Director is subordinate to the Board and is bound by the decision taken by the Board. Whereas, even before a show cause notice was issued and hearing was conducted by the Managing Director, the Board has taken a decision against the petitioner and mandated the Managing Director to act in accordance with the decision. Therefore, whatever is done by the Managing Director, is an empty formality.

(ii) That the order impugned discloses that the Managing Director, placed reliance on some earlier incidents in the year 2009 to hold against the petitioner. Whereas in the show cause notice issued, petitioner was not informed about the

said incidents and no opportunity was afforded to the petitioner.

(iii) The order impugned is passed by the Commissioner which is based on the report of the Managing Director of the 3rd respondent. Whereas, petitioner was not given any show cause notice nor was furnished with the copy of the report of the Managing Director, based on which the impugned order is passed. On the contrary, order impugned is solely based on the report of the Managing Director.

4. Confronted by these submissions, learned Government Pleader, fairly submits that the entire exercise requires reconsideration and agrees for setting aside the order impugned and remittance of the matter for consideration afresh.

5. Having regard to these submissions, the Writ Petition is allowed setting aside the order impugned. The matter is remitted to the Commissioner of Prohibition and Excise –2nd respondent, for consideration of the issue afresh. The 2nd respondent is directed to supply all the documents which are relied upon for initiating action against the petitioner, afford due opportunity of hearing to the petitioner. On receipt of all the documents petitioner shall submit a written explanation within two (2) weeks thereon. In view of the serious objection on the Board taking decision and the fact that the Commissioner also happens to be the Managing Director of the Board, he is directed to act independently uninfluenced by the earlier decision of the Board. Such decision shall be taken only after affording due opportunity i.e., consideration of explanation filed and after providing personal hearing. The decision be made

thereon shall be by a reasoned order and shall be communicated to the petitioner.

6. It is also brought to the notice of this Court, that further orders are passed on 02.01.2017 forfeiting the deposits lying with the respondents and to pay penalty of Rs.5 Crores (Rupees Five Crores only). Since the matter is now remitted for consideration afresh, the respondents are directed not to give effect to the proceedings dated 02.01.2017 till a final decision is taken as directed above. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

6th January, 2017
Rds

P.NAVEEN RAO,J

