

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

WRIT PETITION No.28264 of 2017

ORDER:

Heard Sri Ravi Shankar Jandhyala, learned counsel for the petitioner, and the learned Government Pleader for Prohibition & Excise for the respondents apart from perusing the material available before the Court.

In the present Writ Petition, challenge is to the action of the respondent Nos.2 to 4 in not granting licence in Form-2B in favour of the petitioner herein at premises bearing No.1-4-8/2/5A, Bheem Nagar colony, Gadwal Town, Jogulamba Gadwal District (unit Mahabubnagar Division). It is submitted by the learned counsel for the petitioner that, despite compliance of all the statutory requirements by the petitioner herein for grant of 2B licence, the respondents are withholding the same on unsustainable grounds. A perusal of the material available before this Court discloses manifestly that, earlier one Sri P.Ashanna filed W.P.No.22532 of 2017 before this Court, questioning the action of the respondents herein in not considering his representation and granting Form-2B licence in favour of the petitioner herein and another. The said Writ Petition was disposed of by this Court on 17.07.2017 by

recording the instructions obtained by the learned Government Pleader from the respondents that the representations of the petitioner were already considered by the authorities and orders were also communicated to the petitioner therein. It is submitted by the learned counsel for the petitioner that, despite the said order, the respondent authorities are not granting licence in favour of the petitioner herein.

During the course of hearing, it is brought to the notice of this Court by the learned counsel for the petitioner the proceedings of the Deputy Commissioner, Prohibition & Excise, Mahabubnagar Division vide Cr.No.A/28/2017 dated 24.06.2017. The said proceedings were issued by the Deputy Commissioner of Prohibition & Excise obviously turning down the complaint made by the petitioner in W.P.No.22532 of 2017. It is required to be noted that obviously W.P.No.22532 of 2017 was also disposed of basing on the said proceedings dated 24.06.2017.

When the matter is taken up today, a letter bearing Cr.No.A/28/2017-3 dated 30.08.2017, addressed by the Deputy Commissioner, Prohibition & Excise, Mahabubnagar Division to the office of the learned Government Pleader for Prohibition & Excise, Hyderabad, is placed on record.

In the said letter, it is stated that the Commissioner, Prohibition & Excise over telephone instructed the DPEO, Gadwal not to issue 2B licence to the subject Bar and Restaurant as he received certain complaints with regard to the genuineness of the certificates issued by the EE (R&B), Gadwal and DM & HO, Gadwal and the said letter also refers to the letter dated 10.07.2017 addressed by the office of the Commissioner, Prohibition & Excise to the Engineer-in-Chief (R&B), Khairatabad, Telangana and the Director of Medical & Health, Government of Telangana, Sultanbazar, Koti, Hyderabad.

The said letter, dated 10.07.2017, is placed on record by the learned Government Pleader. A perusal of the said letter shows that the office of the Commissioner referred to the letter of one Sri P.Ashanna-petitioner in W.P.No.22352 of 2017 once again.

According to the learned counsel for the petitioner, the said action on the part of the respondent authorities, in conducting repeated enquiries and dodging the issue on the ground that clarification was sought from the concerned authorities, is highly illegal. It is also submitted that once the complaint of the petitioner in W.P.No.22352 of 2017 was considered and orders were passed by the Deputy Commissioner, Prohibition & Excise,

Mahabubnagar after an enquiry, the question of once again writing letters to the above said authorities based on the same complaint cannot be sustained and the said action on the part of the respondent authorities is highly illegal, arbitrary and violative of Articles 14 and 19 (1) (g) of the Constitution of India.

This Court finds sufficient force in the submissions of the learned counsel for the petitioner. It is very much clear from the proceedings of the Deputy Commissioner, Prohibition & Excise, Mahabubnagar Division vide Cr.No.A/28/2017, dated 24.06.2017, that the complaint of the petitioner in W.P.No.22532 of 2017 was considered and rejected and, accordingly, W.P.No.22352 of 2017 was also disposed of, while keeping it open for the petitioner therein to seek appropriate remedy before the authorities concerned, if he so desires. There is absolutely no justification on the part of the respondent authorities in refusing to grant 2B licence in favour of the petitioner herein on the above said ground once again.

For the aforesaid reasons, the Writ Petition is allowed, directing the respondent Nos.2 to 4 herein to pass appropriate orders, granting Form-2B licence in favour of the petitioner herein, within a period of two weeks from the date of receipt of a copy of this order.

As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

04th September, 2017
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