

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.33654 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. The show cause notice for suspension in Rc.No.152/2017/B2, dated 22.09.2017, issued by the Prohibition and Excise Superintendent, Tirupati, Chittoor District, respondent No.5 herein, calling upon the petitioner to show cause as to why his A-4 licence should not be suspended is under challenge in the present writ petition.

3. In response to the said show cause notice, according to the petitioner, he submitted an explanation on 02.10.2017 bringing to the notice of respondent No.5 the realities in the issue and requested to drop further action. According to the learned counsel for the petitioner, the very initiation of proceedings under Section 31 of the A.P. Excise Act, 1968 is impermissible and cannot be sustained in the eye of law.

4. On the other hand, it is submitted by the learned Government Pleader that the notice impugned in the present writ petition is only a show cause notice and as the petitioner has already submitted the explanation on 02.10.2017 denying the allegations in the show cause notice, the present writ petition is not maintainable and the explanation said to have been offered by

the petitioner herein will be verified by respondent No.5 and appropriate further action will be taken in accordance with law.

5. A perusal of the impugned notice clearly shows that respondent No.5, by virtue of the said notice, called upon the petitioner herein to show cause as to why his A-4 licence should not be suspended. Admittedly, according to the petitioner, he submitted the explanation on 02.10.2017. According to the learned counsel, the said explanation is pending consideration before respondent No.5. Therefore, this Court is not inclined to adjudicate the validity of the said show cause notice as there is no dispute with regard to the competence of jurisdiction of respondent No.5 in issuing the said show cause notice.

6. Having heard the learned counsel for the petitioner and the learned Government Pleader, this Court deems it appropriate to dispose of the present writ petition with a direction to respondent No.5 to consider the explanation, dated 02.10.2017, said to have been submitted by the petitioner herein and to take further action strictly in accordance with law after giving opportunity of hearing to the petitioner herein.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

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

JUSTICE A.V.SESHA SAI

Date : 10.10.2017
AMD



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AMD