

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

W.P.No.22338 of 2017

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise for the respondents herein.

2. Petitioner herein is a licensee of A.4 shop and the lease period of the petitioner herein is valid till 31.03.2019 as per the said license granted by the Prohibition and Excise Superintendent, Visakhapatnam/third respondent herein on 11.04.2017. The Prohibition and Excise Superintendent, Visakhapatnam, issued a notice bearing Rc.No.67/2017/A3, dated 28.06.2017, asking the petitioner herein to submit proposal for shifting the above A4 shop within 7 days from the date of receipt of the notice. The said notice dated 28.06.2017 is under challenge in the present writ petition.

3. According to the learned counsel for the petitioner, the impugned 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. It is further submitted by the learned counsel that previously the respondent authorities granted the license in favour of the petitioner herein only after verifying all the aspects and now without issuing even a show-cause notice, the Prohibition and Excise Superintendent, Visakhapatnam issued the impugned notice and the same is violative of the principles of natural justice. It is further submitted by the learned counsel that the third respondent did not verify the correctness of the complaint made by the Endowments Department. It is also the submission of the learned counsel that previously also A.4 shop was existing during the period 2008 to 2010

and 2010 to 2012 in the subject premises. It is also the submission of the learned counsel that the third respondent ought not to have issued notice straightaway without undertaking measurement of the distance in the presence of the petitioner herein.

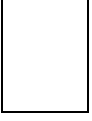
4. A perusal of the impugned notice dated 28.06.2017 does not disclose issuance of any show-cause notice to the petitioner herein before asking the petitioner to shift the shop. In the considered opinion of this Court, the said action on the part of the respondent is violative of the principles of natural justice. It is settled and well established proposition of law that any action on the part of the authorities which has civil consequences must necessarily be preceded by notice and opportunity of hearing to the persons likely to be effected by such action. In the instant case, the same is followed in breach. In the considered opinion of this Court, the impugned action on the part of the respondent authorities cannot be sustained.

5. For the aforesaid reasons, the writ petition is allowed, setting aside the notice bearing Rc.No.67/2017/A3, dated 28.06.2017 issued by the Prohibition and Excise Superintendent, Visakhapatnam/third respondent herein and it is open for the respondent authorities to issue notice and proceed in accordance with laws. Miscellaneous petitions, if any pending, in the writ petition shall stand closed. No order as to costs.

A.V.SESHA SAI, J

Date: 31.08.2017

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