

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 2552 OF 2017

ORDER :

The case of the petitioner is that pursuant to the Notification issued calling for the Applications for issuing licence for running bar and restaurant, he made the Application on 09.12.2016 complying with the necessary requirements before the cut-off date. As per the notification, the petitioner has to establish bar and restaurant at a distance of 100 meters away from the National High Way and State High Way. The petitioner complied with the said condition.

The Apex Court in Civil Appeals No. 12164 – 12166 of 2016 dated 15.12.2016 directed that no sale of liquor shall be within a distance of 500 metres of the outer edge of the national or state highway or of a service lane along with the high way.

The grievance of the petitioner is that without issuing any notice, the authorities are scrutinizing his Application in accordance with the directions of the Apex Court and are thereby contemplating to reject his Application on the ground that the proposed site for establishing restaurant is less than 500 meters from the State High Way. The petitioner therefore, requested the respondent authorities to permit him to shift the premises to the next floor which would be 507 meters from the Highway, but the same has not been taken into consideration. Hence, this Writ Petition.

learned counsel for the petitioner submits that as the judgment of the Apex court is dated 15.12.2016 i.e., after the submission of the Application, the petitioner has no opportunity to

fulfill the said condition. He submits that this Court, in similar facts and circumstances in Writ Petition No.1809 of 2017, by the Order dated 19.01.2017, directed the authorities to consider the Application of the petitioner therein, if he is otherwise eligible. The said Order is as under:

“The grievance of the petitioners is that though the respondent – authorities received the application made by them on 10.12.2016 but in view of subsequent judgment of the Apex Court in Civil Appeal Nos.123164-12166 of 2016, the authorities are trying to exclude them from draw of lots.

It is to be noted that the judgment of the Apex Court was delivered on 15-12-2016 and the petitioners submitted their application on 10-12-2016. In view of the above, if the petitioners are otherwise eligible and if they have fulfilled all the requirements, the respondent – authorities shall consider the applications in the draw of lots. In case the petitioners are successful in the draw of lots, the authorities shall follow the guidelines laid down by the Apex Court.”

The learned Government Pleader for Prohibition and Excise does not dispute the above aspect.

Though in the Writ Petition, the petitioner also sought for a direction to allow him to shift the premises to the next floor, that question would arise only if the petitioner becomes the successful bidder in the auction. In those circumstances, the relief is limited to the extent of consideration of the petitioner’s Application.

The Writ Petition is therefore, disposed of at the stage of admission, in terms of the above order of this Court dated 19.01.2017 in Writ Petition No. 1809 of 2017. No costs.

Consequently, the miscellaneous Applications, if any shall also stand disposed of.

CHALLA KODANDA RAM, J

25th January 2017

ksld

