

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

WRIT PETITION No.27352 of 2017

ORDER:

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

The order passed by the Prohibition & Excise Superintendent, Karimnagar District vide proceedings in Rc.No.449/2011/P&Ex/A3, dated 07.08.2017, is under challenge in the present Writ Petition.

The petitioner herein is a 2-B Bar licence holder. The dispute in the present Writ Petition is with regard to the payment of additional licence fee. The Prohibition & Excise Superintendent, Karimnagar-fourth respondent herein earlier issued a notice bearing Rc.No.449/2011/P&Ex/A3, dated 23.12.2016, directing the petitioner herein to pay a sum of Rs.12,60,000/- towards additional licence fee in terms of G.O.Ms.No.219 dated 05.10.2016. Assailing the validity of the said notice, dated 23.12.2016, the petitioner herein filed W.P.No.15021 of 2017. This Court, on 25.07.2017, disposed of the said Writ Petition with a direction to the respondent authorities to consider the representation dated 17.04.2017 submitted by the petitioner herein in respect of the subject-

matter. Thereafter, the Prohibition & Excise Superintendent-fourth respondent herein passed the order under challenge dated 07.08.2017 asking the petitioner to pay additional licence fee of Rs.12,60,000/-.

It is contended by the learned counsel for the petitioner that, though the committee, constituted by the respondents, seems to have conducted an inspection of the premises, no opportunity was given to the petitioner to represent before the authorities at the time of holding the said inspection. It is further contended that no inspection report was furnished to the petitioner herein for filing objections and the fourth respondent issued a notice on 14.07.2017, directing the petitioner to pay 30% additional fee and, in response thereof, the petitioner made a representation and, without considering the same and without giving an opportunity to avail the benefit, under Rule 13(2) of the Telangana Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005, the impugned action is resorted to.

On the contrary, it is submitted by the learned Government Pleader that the above factual aspects cannot be gone into in the present Writ Petition and the present Writ Petition is not maintainable in view of the availability of an alternative remedy

of appeal to the Deputy Commissioner of Prohibition & Excise under the provisions of Section 63 of the Telangana State Excise Act, 1968 (for brevity, 'the Act'). Under Section 63 of the Act any order passed by the Excise Superintendent is appealable before the Deputy Commissioner of Prohibition & Excise within a period of 45 days from the date of communication of the order under appeal. In view of the said efficacious alternative remedy available to the petitioner herein, this Court deems it appropriate to direct the petitioner to avail the said alternative remedy before the Deputy Commissioner of Prohibition & Excise. However, having regard to the submissions made by the learned counsel for the petitioner, taking into consideration the appellate remedy available to the petitioner, it would be appropriate to protect the interest of the petitioner herein for some time, leaving it open for the petitioner to file an appeal before the Deputy Commissioner of Prohibition & Excise under Section 63 of the Act. If any such appeal is filed, the same be considered and appropriate orders be passed in accordance with law after giving notice and opportunity of being heard to the petitioner herein. It is made clear that, for a period of one month from today, the impugned order shall remain suspended.

The Writ Petition is, accordingly, disposed of. Consequently, Miscellaneous Petitions, if any pending in this Writ Petition shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

21st August, 2017.

Note:

*Furnish C.C. of the order
within three days.*

*B/o
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