

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.19634 of 2017

ORDER:

This writ petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking to declare the proceedings of the 4th respondent issued in Rc.No.172/2015/A6, dated 07.06.2017, as illegal and arbitrary and in violation of principles of natural justice.

2. Heard both sides and perused the material available on record.

3. The case of the petitioner is that in pursuance of the notification issued by the 4th respondent inviting applications from eligible candidates for grant of license to sell liquor by shop, the petitioner participated in respect of the shop notified at Gazette Serial No.348 and the petitioner was successful in the drawal of lots and the license was granted to the petitioner for excise year 2015-17 and the license expires by 30.06.2017 and ever since the date of grant of license, the petitioner is conducting the business without contravening any of the provisions of the Excise Act. It is further case of the petitioner that the 4th respondent issued the impugned proceedings in Rc.No.172/2015/A6, dated 07.06.2017, wherein it is stated that the Station House Officer, Rapur, has submitted a report stating that on 06.06.2017 at about 4.00 p.m. on credible information and on the instructions of the Director of Enforcement, Prohibition and Excise, A.P., Vijayawada, the Prohibition and Excise Sub-Inspector, STF Vijayawada, along with staff secured mediators raided at Audurapalli Village Main Road

left side building near Venkateswara Rice Mill and detected a case of unauthorized storage and dilution of liquor and that on scanning of the bottles, it is found that the bottles belongs to the petitioner shop and basing on the same, the 4th respondent came to the conclusion that the petitioner has violated the license premises and since the allegations are grave in nature, the 4th respondent suspended the license of the petitioner.

4. When the matter is posted for hearing, learned Government Pleader for Prohibition and Excise appearing for the respondents submitted that the impugned order, dated 07.06.2017, is an appealable order and that appeal against the impugned order lies with the Deputy Commissioner of Prohibition & Excise, Nellore, within 45 days from the date of the impugned order under Section 63 of the A.P. Excise Act, 1968. It is further submitted by the learned Government Pleader that the violations mentioned in the impugned order, dated 07.06.2017, are so serious in nature that the license issued to the petitioner is liable to be suspended and further, one of the allegations is that the petitioner is not having any valid licence to stock the liquor in the premises.

5. Learned counsel for the petitioner submitted that even if the allegations in the impugned order, dated 07.06.2017, are found to be true, then the said allegations are compoundable in nature and the petitioner is liable to pay only a fine of Rs.1,00,000/-. Learned counsel for the petitioner further submitted that till the petitioner prefers an appeal, the impugned order, dated 07.06.2017, may be suspended.

6. Considering facts and circumstances of the case and the submissions of both the counsel, this Court intend to dispose of the writ petition with the following direction:

The petitioner is directed to prefer an appeal before the competent authority on or before 03.07.2017 and the competent authority is directed to pass appropriate orders on the said appeal filed by the petitioner, in accordance with law. Until then, the impugned order, dated 07.06.2017, is hereby suspended. While preferring an appeal before the competent authority, the petitioner is directed to pay a sum of Rs.50,000/- (Rupees fifty thousand only) in favour of the respondent authorities and if the respondent authorities decide to compound the alleged offence, then the said amount can be adjusted towards the compoundable fee.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

RAJA ELANGO, J

Date: 16th June, 2017

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