

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.20956 of 2017

ORDER:

This writ petition is filed by the petitioners, under Article 226 of the Constitution of India, seeking to declare the Gazette Notification No.123, dated 23.06.2017, issued by the 4th respondent insofar as fixing the schedule for online enrolment by the existing licensees for grant of Bar license as 29.06.2017, as illegal and arbitrary and violative of Article 19(1)(g) of the Constitution of India and consequently, to set aside the same.

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

3. The case of the petitioners is that the petitioners have established their Restaurants and Bars in the year 2006 after obtaining valid permissions/licenses under the then existing Rules and are running the same till date. While so, the 1st respondent has issued Bar Policy for the period 2017-2022 (i.e., 01.07.2017 to 30.06.2022) for grant of licenses for establishment of Bars vide G.O.Ms.No.236, Revenue (Excise.II) Department, dated 23.06.2017. The 4th respondent issued Gazette Notification No.123, dated 23.06.2017, for making online registration for grant of fresh licenses and as per the said notification, online registrations have to be made on or before 5.00 p.m. on 29.06.2017 and on the same day till 9.00 p.m. applications have to be submitted for considering the grant of license in the prescribed format with all the enclosures. It is further submitted that the 1st respondent has issued Andhra Pradesh Excise (Grant of License of

Selling by Bar and Conditions of License) Rules, 2017 (for short, 'the Rules') vide G.O.Ms.No.235, dated 23.06.2017, and under Rule 6 of the said Rules, all the existing Bars, as on date of the issue of above Rules, are entitled for grant of licenses subject to payment of non-refundable application fee, non-refundable registration charge and license fee as prescribed and fulfillment of other conditions and that under 3rd proviso to Rule 7 of the Rules, if the existing licensee fails to apply on or before the last date and time notified, the same will be cancelled and such Bar will be notified by calling applications for grant of fresh license. It is further submitted that the Apex Court, in Civil Appeal Nos.12164-12166 of 2016, dated 15.12.2016, has directed that (i) no shop for the sale of liquor shall be visible from a National or State High Way, (ii) directly accessible from a National or State Highway, and (iii) situated within a distance of 500 meters of the outer edge of the National or State Highway or of a Service Lane along the Highway. It is further submitted that all the petitioners are located within 500 meters of either National Highway or State Highway and therefore, in compliance of the orders of the Apex Court in the above said cases, the petitioners have to re-locate their Bars and Restaurants to places which do not fall on either National Highway or State Highway. It is further submitted that the Bar Policy for the period 2017-2022 was issued on 23.06.2017 and the 4th respondent has issued Gazette Notification No.123, dated 23.06.2017, at 8.00 p.m., for online registration and it is evident that the time provided to apply with conditions is very short and that it is impossible to comply with the conditions prescribed.

4. The main grievance of the petitioners is that it is difficult for the petitioners, who have to re-locate their Restaurants, to submit applications with all the enclosures in such short time without having appropriate premises. Challenging the Gazette Notification No.123, dated 23.06.2017, in fixing the time for registration through online for grant of bar license as 29.06.2017, the present writ petition is filed by the petitioners.

5. Learned counsel for the petitioners submitted that the respondent authorities ought to have granted reasonable time for fulfilling the conditions laid down in the Rules to the petitioners and that the Gazette Notification was issued by the 4th respondent on 23.06.2017 fixing the time till 29.06.2017 and, hence, it is highly impossible for the petitioners to re-locate the premises within a short period of time of six days and to fulfill all other conditions laid down in the Rules in order to produce the same before the respondent authorities along with the applications. Learned counsel further submitted that the action of the 4th respondent in fixing the time till 29.06.2017 for online registration is illegal and arbitrary.

6. Learned Advocate General appearing on behalf of the 1st respondent-State submitted that the petitioners can file their applications through online or in person on or before 29.06.2017 and that the respondent authorities have taken a view that all the required documents and permissions can be filed by the petitioners within a period of one (1) month from 29.06.2017.

7. Considering the facts and circumstances of the case and the submissions of the learned counsel for the petitioners and

the learned Advocate General appearing for the 1st respondent-State, this Court is of the view that no prejudice would be caused to the respondents, if the petitioners can be given time to produce all the relevant documents and permissions. Hence, this Court is of the view that the writ petition can be disposed of with the following direction:

The petitioners are permitted to file their applications through online or in person on or before 29.06.2017, in pursuance of the Gazette Notification No.123, dated 23.06.2017, issued by the 4th respondent. The petitioners are permitted to produce all the relevant documents and permissions before the respondent authorities within a period of one (1) month from 29.06.2017. On such filing of all the relevant documents and permissions by the petitioners, the respondent authorities are directed to pass appropriate orders on the applications submitted by the petitioners, as expeditiously as possible, in accordance with law.

8. With the above direction, 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: 29th June, 2017

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