

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.33811 OF 2017

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise (A.P.) appearing for the respondents.

2. Show cause notice bearing Rc.No.160/2017/A1/2, dated 05.10.2017, issued by the Prohibition and Excise Superintendent, Tirupati, Chittoor District, respondent No.3 herein, calling upon the petitioner to show cause as to why A-4 licence of the petitioner should not be suspended is under challenge in the present writ petition.

3. According to the petitioner, immediately after receipt of the inspection report, she submitted an explanation/representation to respondent No.3 on 03.10.2017, denying the contents of the inspection report and also requested to drop further action in the matter. According to the learned counsel for the petitioner, without even considering the said explanation/representation, respondent No.3 issued the impugned show cause notice, dated 05.10.2017, alleging violation of the conditions of licence and the A.P. Excise (Grant of Licence of Selling by Shop and Conditions of Licence) Rules, 2012. It is further submitted by the learned counsel that the impugned action is also in contravention of the instructions issued by the Commissioner of Excise *vide* proceedings, dated 09.09.1987. The relevant portion of the said instructions sought to be relied upon by the learned counsel for the petitioner is as under:

“It is also decided that no crimes shall be booked and no FIR / Crime and occurrence report shall be issued in respect of petty offences which are listed below:

- a) not displaying the licence prominently - provided the shop is licenced as such,***
- b) not displaying the nowkarnama.***
- c) mere possession of empty bottles or broken bottles without any direct evidence of loose sales either by way of finding consumers actually drinking the liquor or laying out of tables and chairs in a manner meant only for supplying loose liquors to the consumers for consumption at the premises.”***

4. On the other hand, it is submitted by the learned Government Pleader that the impugned notice is only a show cause notice and it is always open for the petitioner herein to submit an explanation to the said show cause notice and if any such explanation is submitted, the same will be considered and appropriate action will be taken strictly in accordance with law.

5. There is absolutely no dispute with regard to the fact that the impugned notice is only a show cause notice issued by respondent No.3 under Section 31 of the A.P. Excise Act, 1968.

6. According to the petitioner, as observed supra, immediately after receipt of the inspection report, the petitioner submitted a representation on 03.10.2017 to respondent No.3, requesting to drop further action in the matter. Since the impugned notice is only a show cause notice and as the petitioner herein has opportunity of filing an explanation to the same and as the representation filed by the petitioner herein on 03.10.2017 is also pending consideration before respondent No.3, this Court deems it

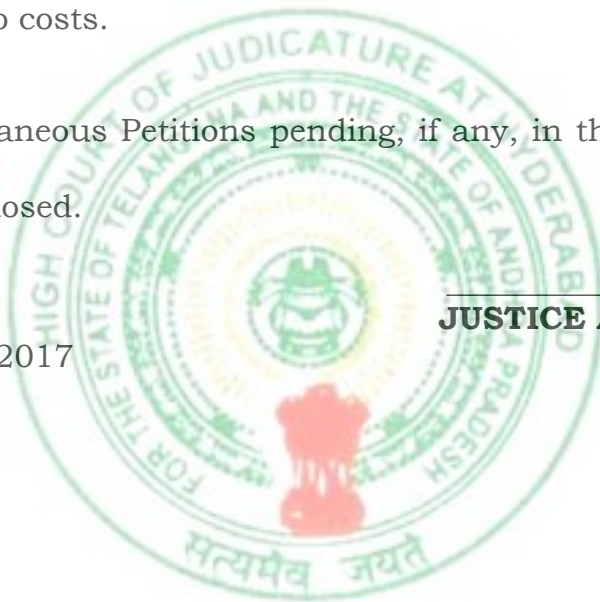
appropriate to dispose of the present writ petition, leaving it open to the petitioner herein to submit explanation to the impugned show cause notice, dated 05.10.2017, within a period of one week from the date of receipt of a copy of this order and if any such explanation is filed within the time stipulated, the same be considered so also the representation, dated 03.10.2017, already submitted by the petitioner herein and pass appropriate orders strictly in accordance with law after hearing the petitioner herein.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

Date : 10.10.2017
AMD

JUSTICE A.V.SESHA SAI



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