

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

WRIT PETITION No.26931 of 2017

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise (Telangana) for respondents.

2. An order of confiscation passed by the Deputy Commissioner of Prohibition and Excise, Hyderabad Division vide proceedings in Case No.C2/798/2016 dated 16.02.2017 as confirmed by the Commissioner of Prohibition and Excise, Telangana State, Hyderabad vide CR.No.1622/2017/CPE/TS/D1 dated 04.07.2017, is under challenge in the present writ petition.

3. Alleging illegal possession and sale of IMFL, the Excise Officials seized a CBZ bike bearing No.AP15BE 1396 and 14 IMFL bottles of different brands each 1000 ml., and initiated confiscation proceedings under the provisions of the Telangana Prohibition and Excise Act, 1968 (for short, the Act). The Deputy Commissioner of Prohibition and Excise, Hyderabad Division, third respondent herein, vide impugned order dated 16.02.2017, passed an order under Section 46 of the Act for confiscation of the said vehicle along with contraband i.e., 14 IMFL bottles of different brands each 1000 ml. Aggrieved by the said order of confiscation, the petitioner filed an appeal before the Commissioner of Prohibition and Excise, second respondent herein, under Section 46-C of the Act. The second respondent, by order dated 04.07.2007 in CR.No.1622/2017/CPE/TS/D1, dismissed the said appeal, upholding the orders of confiscation passed by the third respondent.

4. According to the learned counsel for the petitioner, the orders impugned are highly illegal, arbitrary and contrary to the very spirit and object of the provisions of the Act. It is further submitted by the learned counsel for the petitioner that despite raising a number of grounds in the appeal, the second respondent did not advert to any one of them and mechanically confirmed the order passed by the third respondent. It is brought to the notice of this Court that pending appeal before the second respondent, the petitioner filed W.P.No.15269 of 2017 for release of vehicle and this Court disposed of the said writ petition.

5. A perusal of the memorandum of grounds of appeal filed by the petitioner before the second respondent under Section 46-C of the Act discloses that the petitioner raised a number of grounds for impugning the orders of confiscation, but the second respondent did not consider any one of them. In the considered opinion of this Court, the mode and manner in which the second respondent considered the appeal is not sustainable and the matter requires reconsideration by the second respondent by taking into consideration various grounds urged in the appeal. On this ground alone, the writ petition is liable to be allowed.

6. For the aforesaid reasons, the writ petition is allowed, setting aside the orders passed by the second respondent in CR.No.1622/2017/CPE/TS/D1 dated 04.07.2017 and the appeal filed by the petitioner stands restored. The appeal so restored shall be disposed of by the second respondent, after giving due opportunity to the petitioner, within six weeks from the date of receipt of a copy of

this order. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.V. SESA SAI, J

Date: 11.08.2017
TJMR

