THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 2750 OF 2017

O R D E R :

Petitioner challenges the proceedings dated 30.11.2016 of the 4th respondent Prohibition & Excise Superintendent, Proddatur, by which the A4 licence issued in his favour was suspended pending inquiry.

Based on the surprise visit conducted on 29.11.2016 by the respondent authorities, the petitioner was alleged to have meddled with the sealed bottles of liquor apart from selling spurious liquor. The case of the petitioner is that on an earlier occasion, he approached this Court by way of Writ Petition No. 43611 of 2016 questioning the seizure of his A4 shop, on the ground that no order was passed to that effect. Learned Government Pleader for Prohibition & Excise produced the Order dated 30.11.2016, where under the A4 licence of the petitioner was suspended. The said Writ Petition was therefore, closed leaving liberty to the petitioner to challenge the said Order. Thereafter, the petitioner waited for the respondent authorities to issue a notice and complete the inquiry so as to come to a conclusion as to whether suspension is to be continued indefinitely or the petitioner is to be permitted to pay the compound fees as the offence alleged is admittedly a compoundable offence. The petitioner, however submits that as no show cause notice was issued, he has not submitted any explanation.

On the other hand, the learned Government Pleader submits that the respondent authorities would complete the inquiry within a reasonable time.

Having considered the respective submissions, it is not in dispute that the challenge in this Writ Petition is as to the Order of suspension pending inquiry. As submitted by the learned Government Pleader, for suspension pending inquiry, no notice is required to be given. In that view of the matter, proviso to Section 31(1)(e) of the Andhra Pradesh Excise Act, 1968 does not apply as no prior notice is required to be given. The Full Bench of this Court also had categorically held that suspension pending inquiry cannot be for an indefinite period and there should be a valid reason for making the Order of suspension pending enquiry.

In the present case, the allegation against the petitioner is that non-duty paid liquor as well as diluted liquor is being sold by him. Considering the submission made by the learned counsel for the petitioner that the offence is compoundable and considering the fact that the A4 licence was suspended as far back as on 30.11.2016 and the excise year would end by June 30th, there shall be interim suspension of the Order dated 30.11.2016 till passing the final orders. The petitioner shall treat the Order dated 30.11.2016 as a notice and submit his explanation within one week from today. Within two weeks thereafter, the 4th respondent shall complete the inquiry and pass necessary orders.

With this, the Writ Petition stands disposed of. No costs.

Consequently, the miscellaneous Applications, if any shall also stand disposed of.

CHALLA KODANDA RAM, J

30th January 2017

Issue CC in two days.
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