

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.23707 of 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India challenging the action of the 5th respondent in issuing notice, dated 03.07.2017, as illegal and arbitrary, and consequently, direct the 4th respondent to consider the application of the petitioner for grant of A4 licence in premises bearing D.No.4-1-114, 5th Road, Anantapuram.

It is the case of the petitioner that he made an application for grant of A4 licence to the 4th respondent – Prohibition & Excise Superintendent, Ananthapuramu, in the abovementioned premises. Thereafter, several complaints were received by the 4th respondent from the local residents/women organization members/religious persons and agitations were also conducted against the sanction of licence to the petitioner. Therefore, the 4th respondent conducted personal inspection and found that there is strong resistance from the local people and a writ petition is also filed before this Court against the establishment of A4 shop in that area, and already two more shops are there in that area. Therefore, the 5th respondent – Station House Officer, Prohibition & Excise Station, Anantapur, issued the impugned notice to the petitioner, wherein it is stated as follows:

“Even though the identified premises are as per Rules, in view of the above circumstances and developments, it is found that the establishment of above three A4 shops side by side at Nadimivanka in the said premises is not a viable option and may lead o disturb the public order.

“In view of the above, you are informed that therefore, in public interest and to safeguard the public order, you are hereby informed to select some other suitable premises within Ananthapuramu Municipal Corporation for establishment of your A4 shop (G.S.L.No.AT/ 10) as you are not restricted to any particular division or locality in the municipal corporation.”

Hence, the present writ petition.

Heard and perused the material available on record.

The main contention of the petitioner is that the 5th respondent has no authority to issue such a notice since the 4th respondent is the competent authority for grant of licence, and that the present premises satisfies the norms fixed in the Rules and that the 4th respondent ought to have issued the licence and that the petitioner paid a substantial amount as licence fee and also registration charges for permit room and also paid advance to the owner of the premises and that he could not get another place since the licence period commences from 01.07.2017.

A perusal of the impugned notice discloses that the identified place is as per Rules, but only on the other circumstances, the 5th respondent communicated a letter to the petitioner directing to identify some other place. As per Rule 25 of the A.P. Excise (Grant of Licence of selling by Shop and conditions of licence) Rules 2012, selection of the premises has to be approved by the Prohibition and Excise Superintendent and the factors which have to be taken into consideration are enumerated in the rule itself. Therefore, the 5th respondent does not have any authority to issue such a notice to the petitioner and hence, the notice under challenge is liable to be set aside and the same is hereby set aside.

Accordingly, the Writ Petition is disposed of directing the 4th respondent – Prohibition & Excise Superintendent, Anantapuramu, is directed to consider the application of the petitioner for grant of A4 licence in accordance with law, without prejudice to the notice issued by the 4th respondent. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

July 20, 2017
KTL