

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.1662 OF 2017

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for respondents. With their consent, the Writ Petition is disposed of at the admission stage itself.

2. The present Writ Petition came to be filed with the following prayer:

“..to issue a Writ of Mandamus or any other appropriate Writ or Writs, Orders and Directions, declaring the order dated 11.01.2017 in Proceedings Rc.No.A/727/2016 on the file of 2nd Respondent, as wholly illegal, arbitrary and also in violation of principles of natural justice.”

3. The main ground urged by the learned counsel for the petitioner in the present writ petition is that one G.Maddileti Goud from whom the contraband has been seized is a habitual criminal and the petitioner society has nothing to do with him. It is the case of the petitioner that it has given number of complaints against the said Maddileti Goud, but the authorities have erred in coming to a conclusion that the said Maddileti Goud is a vendor of the petitioner. The material on record also discloses that earlier the petitioner herein filed W.P.No.44448 of 2016 before this Court questioning the proceedings in RC No.A/727/2016 dated 15.12.2016 on the ground that the impugned order therein was passed without assigning any

reasons. By an order dated 21.12.2016 this Court allowed the writ petition setting aside the said proceedings and directed the Prohibition and Excise Superintendent to pass a reasoned order after considering the objections filed by the petitioner.

4. Learned Government Pleader for Prohibition and Excise submits that subsequent to the order passed by this Court in the above writ petition, the authorities have considered the objections filed by the petitioner passed the impugned order and that the objection, which is now taken in this writ petition, relates to some factual aspect, which cannot be decided by this Court under Article 226 of the Constitution of India.

5. Since the issue whether decision in factual aspects namely as to whether Maddeleti Goud is the vendor of the petitioner or not, this Court is of the view that the said aspect cannot be adjudicated under Article 226 of the Constitution of India at this stage. Since Section 63 of the Excise Act provides for an appeal to the Deputy Commissioner of Excise against an order passed by the Excise Superintendent, the Writ Petition is disposed of directing the petitioner to prefer an appeal before the appropriate authority within a period of ten (10) days from today, which event, the authority concerned shall dispose of the appeal at the earliest. There shall be interim suspension of the impugned proceedings for a period of four (04) weeks from today. Meanwhile, the petitioner shall file an application seeking interim direction, in which event, the same shall

also be considered, if the appeal cannot be considered within the time prescribed.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:18.01.2017
INL

