

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.36868 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“to declare the action of the 2nd Respondent in not taking up the appeal and not passing orders in Interlocutory Application filed by the Petitioner on 25.10.2017, as wholly illegal and arbitrary, consequently declare the proceedings dated 29.09.2017 in Procegs. Rc. No.A6/1133/2017 on the file of the 3rd Respondent as one without jurisdiction and in contravention of the Rule 27 of the Telangana Excise (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007.”

[Reproduced verbatim]

2. I have heard the submissions of the learned counsel for the petitioner and of the learned Government Pleader for Excise appearing for respondents 1 to 4. I have perused the material record.

3. The main grievance of the writ petitioner is as regard to delay in sending of the sample to the Chemical Examiner contrary to the provision in Sub-Rule 3 of Rule 27 of the T.S Excise (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007.

4. At the hearing, learned counsel for the petitioner and the learned Government Pleader bring to the notice of the Court that an appeal has already been filed and that the appeal is under consideration before the Deputy Commissioner of Prohibition & Excise, Mahabubnagar District.

5. Learned counsel for the petitioner, however, submits that though an appeal and an interlocutory application for stay have been filed on

25.10.2017, so far no orders are passed either in the interlocutory application seeking stay or in the appeal.

6. In that view of the matter, this Court is of the considered view that this writ petition can be disposed of at the stage of admission.

7. In the result, the Writ Petition is disposed of directing the Deputy Commissioner of Prohibition & Excise, Mahabubnagar District, 2nd respondent herein, to dispose of the appeal preferred by the petitioner within a period of two (02) weeks from the date of receipt of a copy of this order, however, in strict accordance with the procedure established by law and communicate a copy of the order within a week thereafter to the petitioner. It is, however, made clear that in case the 2nd respondent is not in a position to dispose of the appeal, he shall at least consider the application for grant of stay in an appropriate manner, however, in strict procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE M. SEETHARAMA MURTI

Date: 3rd November, 2017

Note: Issue C.C. on 06.11.2017.

(B/o.)
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Date: 3rd November, 2017

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