

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

WRIT PETITION No.34701 of 2017

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Prohibition & Excise.

The show cause notice for suspension bearing Rc.No.360/2017/A, dated 09.10.2017, issued by the Prohibition & Excise Superintendent, Chittoor District-fourth respondent herein, is under challenge in the present Writ Petition.

The petitioner is a licensee of A4 shop. Followed by a raid conducted and the consequential registration of F.I.R.No.250/2017 on the file of the Prohibition & Excise Station, Karvetinagaram Under Section 36 (1) (b) & (c) Andhra Pradesh Excise Act, 1968 (for brevity, 'the Act') r/w Condition No.11 of Licence Conditions and Rule 42 of the Andhra Pradesh Excise (Grant of Licence of Selling by Shop and Conditions of licence) Rules, 2012, the Prohibition & Excise Superintendent-fourth respondent herein issued the present impugned show cause notice calling upon the petitioner herein to show cause as to why licence of the petitioner herein should not be suspended.

According to the learned counsel for the petitioner, the very initiation of the proceedings, under the provisions of the Act and the Rules framed thereunder, is impermissible and in the impugned show cause notice itself the fourth respondent came to the conclusion that

the petitioner herein violated the provisions of the Act and the Rules framed thereunder.

On the other hand, it is submitted by the learned Government Pleader that, since the notice under challenge is only a show cause notice, the present Writ Petition is not maintainable under Article 226 of the Constitution of India. It is also brought to the notice of this Court that, in response to the impugned show cause notice, the petitioner herein submitted explanation on 14.10.2017 and the same is pending consideration before the fourth respondent. Since the notice impugned in the instant case is only a show cause notice and the petitioner herein has also submitted his explanation in response to the show cause notice, this Court deems it appropriate to dispose of the Writ Petition with a direction to the Prohibition & Excise Superintendent-fourth respondent herein to consider the explanation offered by the petitioner on 14.10.2017 and to pass appropriate orders, strictly in accordance with law, after giving opportunity of hearing to the petitioner herein.

The Writ Petition is, accordingly, disposed of. Consequently, miscellaneous petitions, if any pending in this Writ Petition shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

20th October, 2017
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