

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.35192 OF 2017

ORDER:

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

The show cause notice issued by the Prohibition & Excise Superintendent, Tirupati-fourth respondent herein, vide proceedings in Rc.No.172/2017/A1, dated 17.10.2017, is under challenge in the present Writ Petition.

Petitioner herein is a licensee of A4 shop situated at Tirupati, Chittoor District. According to the learned counsel for the petitioner, the very initiation of proceedings is impermissible and contrary to law. It is submitted that the confessional statement of the accused in the crime registered cannot be the sole criteria for initiating any action. It is further submitted that, since the Prohibition & Excise Superintendent already made up his mind to take action, the impugned show cause notice cannot be sustained in the eye of law.

On the other hand, it is submitted by the learned Government Pleader that there is no illegality nor there exists any procedural infirmity in the impugned action and, in the absence of the same, the impugned action is not amenable for any judicial review under Article 226 of the Constitution of India. It is the further submission of the learned Government Pleader that, since the impugned notice is only a show cause notice, the present Writ Petition is not maintainable before this Court, in the absence of the contention as regards lack of jurisdiction.

As rightly pointed out by the learned Government Pleader, the impugned notice is only a show cause notice issued by the Prohibition & Excise Superintendent, under the provisions of the A.P.Excise Act, 1968, calling upon the petitioner herein to show cause as to why his licence should not to be suspended. It is clear by a reading of the impugned show cause notice that the petitioner herein is also given opportunity of filing explanation to the said show cause notice. Therefore, this Court is not inclined to scuttle the impugned action. However, it is open for the petitioner herein to submit his explanation to the impugned show cause notice, dated 17.10.2017, within a period of one week from today. If any such explanation is submitted, within the time stipulated above, the same be considered and appropriate orders be passed, strictly in accordance with law, after giving opportunity of personal hearing to the petitioner herein.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

A.V.SESHA SAI,J

24th October, 2017

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