

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.44092 of 2017

ORDER:

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

“For the reasons stated in the accompanying affidavit, the Petitioner herein prays that this Hon’ble Court may be pleased to issue a writ order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the Respondents No.4 in suspending the petitioner A4 Shop Licence No. G.Sl.No. CT/123/2017-19 vide proceedings No. 425/2017/A1 dated 20-12-2017 is illegal, arbitrary, contrary to law and against the Provisions of A.P. Excise Act,1968 to set aside the same and consequently direct the respondents No.4 to restore the Petitioner A4 Shop License No. G.Sl.No. CT/123/2017-19 of Himaja Wines, at Sy.No. 130/3A, Ward No.5, Punganur-Tirupathi Road, Chowdepalli Village and Mandal, Chittoor District Andhra Pradesh and to pass such other order or orders as this Hon’ble court may deem fit and proper in the circumstances of the case.”

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

3. At the hearing, learned counsel appearing for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for the respondents 1 to 4 are in agreement that the issue involved in the present writ petition is squarely covered by the orders, dated 06.11.2017, of this Court in W.P.No.36491 of 2017. A copy of the order of this Court in the afore-stated writ petition is placed on record. Submissions that the issue involved in the present writ petition is squarely covered by the orders of this Court in the aforesaid writ petition apart, a perusal of the impugned proceeding shows that no reasons are assigned in support of the findings

recorded in the last paragraphs and it is only stated that the explanation is not tenable and that the same is not maintainable and that the explanation offered by the licensee is far from truth. None of the submissions in the explanation of the petitioner were adverted to and considered by the Prohibition & Excise Superintendent, Chittoor FAC while issuing the impugned proceeding. For that reason alone, the impugned proceedings are liable to be set aside. Further, the impugned proceedings were issued, according to the submissions of the petitioner, without serving on the petitioner a copy of the report, dated 18.12.2017, of the Station House Officer, Punganur, however, by referring to the said report of the Station House Officer in violation of the principles of natural justice. For the above reasons also, the impugned proceedings are liable to be set aside, in the considered view of this Court.

4. Having regard to the submissions and following the above said orders of this Court in the afore-stated writ petition and for the reasons alike as were mentioned in the above said orders of this Court in the aforesaid writ petition and for other reasons assigned supra, the Writ Petition is allowed and the impugned order is set aside with the following further directions to the 4th respondent. The 4th respondent, within two weeks from the date of receipt of a copy of this order, shall serve a copy of the report of the Station House Officer, Punganur of Chittoor District, dated 18.12.2017, on the petitioner and afford an opportunity to offer petitioner's explanation to the contents of the said report. After receiving such explanation, if any, offered by the petitioner, the 4th respondent shall dispose of the same and pass orders afresh in the matter in strict accordance with the procedure established by law, however, after affording an opportunity

of being heard to the petitioner. The said exercise shall be completed by the 4th respondent as expeditiously as possible.

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

There shall be no order as to costs.

JUSTICE M. SEETHARAMA MURTI

Date: 27th December, 2017

Note: Issue C.C. today.

(B/o.)
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