

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.41702 of 2017

ORDER:

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

“....to issue an order or direction more particularly one in the nature of Writ of MANDAMUS declaring the impugned proceedings vide Rc.No.329/2017/B, dated 04-12-2017 issued by the 3rd respondent in suspending the shop licence of Petitioner for the shop situated at Sy.No.115 of Thimancherla, Alur Road, Guntakal in the name style of M/s. Suresh Liquor & Wines, under Section 31 of AP Excise Act without giving any opportunity as provided under the Act to the petitioner as illegal, arbitrary, discriminatory and violation of Articles 14 & 21 of Constitution of India and hence the impugned proceedings of the 3rd respondent is liable to be set aside consequently direct the Respondents to permit the petitioner to allow to run the licensed shop situated at Sy.No.115 of Thimancherla, Alur road, Guntakal, i.e., M/s. Suresh Liquor & Wines as the petitioner has not committed any offence as alleged in the impugned notice, since the impugned notice of the 3rd respondent contrary to the provisions made under the Act and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

(Reproduced verbatim)

2. I have heard the submissions of *Sri K.Satyanarayana Murthy*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Prohibition & Excise appearing for the respondents 1 to 3. I have perused the material record.

3. At the hearing, learned counsel appearing for the petitioner brings to the notice of the Court that pending enquiry, the A4 licence of the petitioner is suspended and that as per the circular, dated 09.09.1987, mere possession of empty bottles or broken bottles without any direct evidence of loose sales either by way of finding consumers actually drinking the liquor or laying out of tables and chairs in a manner meant only for supplying loose liquors to the consumers for consumption at the premises, no cases can be booked and it shall be the duty of the Excise Officer to immediately send a special report to the Excise Superintendent for taking action to compound the first offence and that till date, no enquiry is initiated, and that therefore, the order impugned is unsustainable.

4. Learned Government Pleader would submit that loose sale of liquor in A4 shop is a serious offence and that in the instant case, neither empty bottles nor broken bottles were found, but two bottles, viz., (i) 180ml capacity Honey Bee Brandy bottle with approximately 90 ml loose liquor; and, (ii) HD whisky 180 ml capacity bottle containing approximately 90 ml of loose liquor, were found and that the 3rd respondent-Prohibition & Excise Superintendent would initiate and complete the enquiry within two weeks with the cooperation of the petitioner and that therefore, the writ petition may be disposed of with directions to complete the enquiry.

5. In reply, learned counsel for the petitioner would submit that the interests of the petitioner may be protected.

6. Having regard to the facts & submissions, the Writ Petition is disposed of directing the 3rd respondent to conduct necessary enquiry in strict accordance with the procedure established by law and complete

the said exercise within two weeks from the date of receipt of a copy of this order. The petitioner shall extend necessary cooperation for conduct and completion of such enquiry within the stipulated period. In the event the enquiry could not be completed by the 3rd respondent as directed supra the impugned order shall remain in abeyance till the said enquiry is completed.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

13th December, 2017
RAR

M. SEETHARAMA MURTI, J



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Dated : 13-12-2017

