

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**WRIT PETITION No.44390 of 2017**

**ORDER:**

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

**“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1<sup>st</sup> respondent in reserving for orders in the revision petition filed by the 4<sup>th</sup> respondent against orders of the 2<sup>nd</sup> respondent in CR.No.5095/2017/CPE/E2 dated: 02.11.2017 without furnishing the copy of the revision petition in spite of making written request to the 1<sup>st</sup> and 2<sup>nd</sup> respondents as illegal, arbitrary and violation of Principles of natural justice and contrary to the AP Excise Act and A.P Excise (Appeal & Revision) Rules, 1969 and consequently direct the 1<sup>st</sup> respondent not to pass orders in the revision petition without giving an opportunity of hearing / submit written submission by the petitioners and pass such other order or orders as are deemed fit and proper under the circumstances of the case.”**

2. I have heard the submissions of Smt *G.Jhansi*, learned counsel appearing for the petitioners, and of the learned Government Pleader for Prohibition and Excise appearing for the respondents 1 to 3. I have perused the material record.

3. Learned counsel for the petitioners would submit as follows:

‘The Commissioner of Prohibition and Excise, Andhra Pradesh, Vijayawada (2<sup>nd</sup> respondent), *vide* Proceedings in CR.No.5095/2017/CPE/E2, dated 02.11.2017, for reasons recorded therein, rejected the representation, dated 08.09.2017, of the 4<sup>th</sup> respondent, who is the applicant for establishment of 2B Bar in the name and style of ‘M/s.Vijaya Restaurant and Bar’, at Payakaraopet. However, he observed in the said orders that the 4<sup>th</sup> respondent’s case shall be considered on his selection of any other suitable premises lying within Tuni Municipality area of East Godavari District.

Aggrieved thereof, the 4<sup>th</sup> respondent preferred a revision before the Minister of Prohibition and Excise/Revisional Authority. In the said revision, notices were issued to the petitioners without enclosing a copy of the grounds of revision and material documents, if any, submitted by the 4<sup>th</sup> respondent. Therefore, after receiving the notice, the petitioners addressed a letter, dated 18.12.2017, to the 2<sup>nd</sup> respondent requesting to furnish a set of papers filed in the revision petition of the 4<sup>th</sup> respondent to enable them to furnish their written submissions. However, no such record, as sought for by the petitioners, was supplied to them. Thereafter, at the time of personal hearing also, the petitioners made a request to the Minister for Prohibition and Excise/Revisional Authority requesting to adjourn the hearing of the revision petition and in the meanwhile direct to furnish copies of record filed by the 4<sup>th</sup> respondent in the revision to enable them to submit their written submissions. However, without considering the said submission, the revision petition is 'reserved for orders'. Therefore, the petitioners are before this Court.'

4. Learned counsel for the petitioners would further submit that if the revision petition, which is reserved for orders is directed to be reopened and a direction is given to the concerned to furnish the copies of the record filed in the revision by the 4<sup>th</sup> respondent to enable the petitioners to furnish their written submissions in the revision pending before the Revisional Authority, the ends of justice would be met. It is also submitted that after completing such exercise only, the revisional authority may be directed to dispose of the revision petition, in accordance with procedure established by law.

5. Learned Government Pleader stated that the petitioners were issued a notice providing an opportunity of hearing and, therefore, the

petitioners are not entitled to any relief in this revision petition. However, he further sought time for instructions.

6. Having regard to the facts and submissions, this Court is of the considered view that this writ petition can be disposed of with appropriate directions, as mere service of notice in any proceeding pending before a judicial authority or a quasi-judicial authority, without serving the material papers, which are filed by the applicant or the revision petitioner before such authority concerned is no valid service in the eye of law.

7. In the result, the Writ Petition is allowed, as prayed for. Further, the revisional authority is directed to furnish to the petitioners, a copy of the record/material papers filed by the revision petitioner along with the revision; and, afford an opportunity to the petitioners to submit their written submissions before the revisional authority on the fresh date that may be fixed for hearing. After completing the said exercise and affording an opportunity of hearing to the petitioners herein as well as the 4<sup>th</sup> respondent, the revisional authority shall dispose of the revision petition of the 4<sup>th</sup> respondent, in strict accordance with procedure established by law.

Till a copy of this order is furnished to both sides by 02.01.2018, the revisional authority is directed not to pass any orders in the revision.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

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**JUSTICE M. SEETHARAMA MURTI**

Date: 27<sup>th</sup> December, 2017

**Note:** Issue C.C. today.  
(B/o.) KL

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