

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.44760 OF 2017

ORDER:

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

“For the reasons stated in the accompanying affidavit, it is 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 1st respondent in rejecting the revision petition filed by me vide Memo No.19864/Ex.II (2)/2016-2, dated 05.10.2017, without affording reasonable opportunity of being heard, as being illegal, and arbitrary, and consequently set aside the same, and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.”

2. Heard Sri Babuji Tenneti, learned counsel appearing for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for respondents 1 to 4.

3. It is the case of the petitioner that he is engaged in the business of purchase and sale of jaggery and other kirana items in the name and style of 'M/s.Venkateswara Onion and Kiranam' under valid GRN No.KRM/04/01/8010 issued by the Assistant Commercial Tax Officer, Karimnagar Circle-II and that the petitioner purchased 1800 lumps of white jaggery each containing 10 kgs., from one B. Laxman, a jaggery merchant of Karimnagar, who in turn purchased the same from Panduranga Kirana Store, Jaggery Merchant, Kandhar, Nanded District, Maharashtra, and transported the same and while unloading in his godown at Nagaram Road, Husnabad Mandal, Karimnagar District (now

Medak District) from the lorry bearing Reg.No.MH-26-H-5416, the 3rd respondent came and without perusing the bills, in a routine and mechanical manner seized the white jaggery and the lorry knowing fully well that the white jaggery is being used for human consumption and registered a case in C.O.R.No.47 of 2016 under Section 4(iii) read with 3 of Gur Regulation Act Order 1968 and Section 34 (e) of the A.P. Excise Act, 1995 (Telangana Adaptation Orders, 2015). Thereafter, the 3rd respondent issued a show cause notice to the petitioner, for which he submitted his explanation. However, without considering his explanation, the 3rd respondent passed the confiscation order, dated 19.03.2016, in a routine and mechanical manner. Aggrieved by the same, the petitioner preferred an appeal before the 2nd respondent, but without going into the merits of the case, the 2nd respondent dismissed the said appeal *vide* order, dated 11.08.2016. Aggrieved by the said order, dated 11.08.2016, in Cr.No.3368/2016/CPE/TS/D1, the petitioner filed a revision before the 1st respondent, who rejected the said revision *vide* order, dated 05.10.2017. Hence, the writ petition.

4. The grievance of the petitioner is that no opportunity of being heard was given to him and apart from that the impugned order is a non-speaking order.

5. Learned counsel for the petitioner placed reliance on the order, dated 05.12.2017, passed by this Court in W.P.No.40948 of 2017, whereunder in similar circumstances, this Court had set aside the impugned order therein and remanded the matter to the 1st respondent for fresh disposal.

6. Learned Government Pleader appearing for the respondents submits that the authority concerned is entitled to pass independent orders without being influenced by the result of the criminal case and that the Government is entitled to confiscate the vehicle.

7. Perused the impugned order, dated 05.10.2017, herein and the impugned order in W.P.No.40948 of 2017, which was allowed by this Court accepting the grounds raised by the writ petitioner therein. From the above impugned orders, it is clear that the routine orders came to be passed by the authorities in each and every case, that too, senior functionaries of the Government. The first respondent is aware that being a quasi judicial authority, the grounds raised in the appeal/revision filed before him, have to be analyzed in the light of the rules and regulations and thereafter, he has to pass an order. As the 1st respondent has passed the order impugned in a routine manner without application of mind and also without assigning any reasons in consonance with the rules and regulations, and such act of the 1st respondent results in multiplicity of cases before the High Court, this would cause heavy burden on the authorities/Courts as a whole, resulting in wasting of precious time. Hence, the order impugned is liable to be set aside.

8. Accordingly, the order impugned is set aside and the revision filed by the petitioner before the 1st respondent is restored. The 1st respondent is directed to dispose of the revision afresh and pass appropriate orders, after affording an opportunity of hearing to the petitioner, within a period of four (04) weeks from the date of

receipt of a copy of the order. Further the 1st respondent is directed to issue necessary instructions to the functionaries/officers exercising quasi judicial functions to ensure adherence to the principles of natural justice and pass speaking orders so as to avoid multiplicity of proceedings before the Courts.

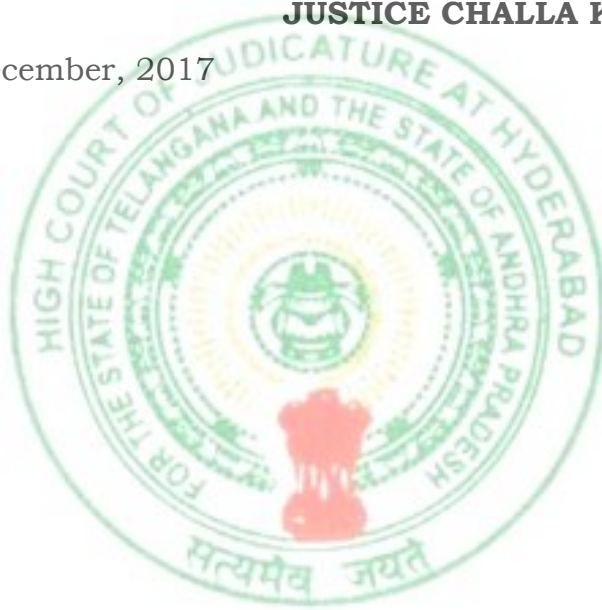
9. With the above directions, the Writ Petition is allowed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE CHALLA KODANDA RAM

Date: 29th December, 2017

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