

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Writ Appeal No. 279 of 2018

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

While several contentions are urged by Sri O.Manohar Reddy, learned counsel for the appellant, in challenge to the order under appeal, we are impressed with the submission of the learned counsel that the learned Single Judge could not have converted an order of punishment as an order of suspension pending enquiry. The operative portion of the order, impugned in the Writ Petition, reads thus:

“In view of the above facts and circumstances take in account, by virtue of powers vested in me under Section 31 of Excise Act, 1968, I. T. Vijaya Sekhar, Proh. & Excise Superintendent, Proddatur being the licensing authority, suspend the licence of M/s. Sri Guru Wines, Muddanur, GSl. No. KD. 214 held in the name R. Pullaiah, S/o.R.Lingamaiah, R/o. Muddanur vide licence No. 214/2017-19 valid upto 30.6.2019 for (8) weeks from the date of receipt of this order to the licensee, in order to restrain the licensee not to commit such further violation of rules in future in public interest.”

The aforesaid order was passed in the exercise of the powers conferred by Section 31 of Andhra Pradesh Excise Act, 1968 (hereinafter referred to as “the Act”) suspending the appellant-writ petitioner’s licence for a period of eight weeks. There is no reference in the said order to the licence having been suspended pending enquiry.

Section 31 of the Act relates to the power to cancel or suspend a licence. Section 31(1) confers power on the authority, granting a licence under the Act, to cancel or suspend the licence irrespective of the period to which the licence or permit relates. The power to suspend the licence under Section 31(1) is as a measure of punishment, and is not an order

passed pending proceedings for cancellation of the licence. While a Full Bench of this Court in **Tappers Cooperative Society, Maddur vs. Superintendent of Excise, Mahaboobnagar**¹ has held that the licencing authority has ancillary and incidental powers to suspend a licence pending enquiry, the impugned order should reflect that the order of suspension was passed as an interim measure, and not as a final order. The order under challenge in this Writ Petition makes no such reference to the licence having been suspended as an interim measure. It is evident, therefore, that the order of suspension is as a final measure of punishment under Section 31(1) of the Act.

Learned Government Pleader for Prohibition and Excise would elaborately refer to the impugned order to contend that while, in all other cases, the order of suspension clearly reflects the order of suspension to be an order pending further proceedings, it is only in this case that the order does not so reflect; the *bona fides* of the order are suspect; and that the matter may require further probe by higher officials of the Department.

It would be wholly inappropriate for us to express any opinion on the submissions now made by the learned Government Pleader for Prohibition and Excise across the bar. Suffice it to make it clear that the order now passed by us shall not disable the authorities from causing an enquiry into the action of the Prohibition and Excise Superintendent, Proddatur in passing the impugned order; and, depending on the outcome of any such enquiry, to take further action thereafter in accordance with law. As the order, impugned in the Writ Petition, is to place the appellant-writ petitioner's licence under suspension for a period of eight weeks, and as it is not in dispute that

¹ 1984 (2) APLJ page 1

the eight weeks period would expire by 5.3.2018, the appellant-writ petitioner shall be permitted to carry on business after 5.3.2018 subject to any further action which the authorities may take as indicated hereinabove.

The order under appeal is set aside and the Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

23rd February, 2018

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