

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

WRIT PETITION No.5200 of 2018

ORDER:

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

“to issue an order or orders or direction or a writ one in the nature of Writ of Mandamus declaring the action of respondent No.4 in suspending the license of the petitioner's A4 shop in License No.62/ 2017-19/ GDR vide proceeding Rc.No.160/ 2017/ A6 dated 12-02-2018 is illegal, arbitrary and violation of principles of natural justice and consequently set-aside the same and pass such other order or orders as this Hon'ble Court”

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for the respondents and perused the prayer in the writ petition with supporting affidavit, impugned proceedings of the Superintendent, Prohibition and Excise, dated 12.02.2018 and the other material on record.

3. The lis in this writ petition is covered by the order of this Court in W.P.No.1359 of 2018 and batch. A perusal of the impugned order clearly shows that it is, as a penal action under Section 31 of the A.P.Excise Act (for short 'the Act'), the orders are passed as a deemed final order and not even mentioned as suspension pending enquiry even in the public interest and by mentioning that there is an appeal remedy. Once that is the order, which is, without affording opportunity to the petitioner by show cause notice, the same is not sustainable, as observed thereunder.

4. Having regard to the above, this Writ Petition is allowed setting aside the impugned order and the respondents are at liberty to issue a show cause notice to the petitioner and proceed in accordance with law. However, this order does not come in the way of fresh or further proceedings to be initiated by the respondents.

5. Consequently, miscellaneous petitions, if any shall stand closed. No order as to costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 19.02.2018

Note:

Issue C.C. tomorrow.
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