

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.5264 of 2018

ORDER:

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

2. The prayer in the writ petition reads as follows:

“.....to issue a writ of mandamus or any other appropriate writ or direction declaring the order of the 4th respondent passed in RC.No.214/2017/B2, dt.12.02.2018 as illegal, arbitrary and one without jurisdiction and in violation of principles of natural justice and pass such other or further orders as the Hon'ble court feels deem fit and proper in the facts and circumstances of the case.”

3. It is the contention of the learned counsel for the petitioner with supporting writ petition affidavit averments that he is conducting business without contravention any of the conditions of the licence or the provisions of the A.P. Excise Act, 1968 (for short, 'the Act') and the Rules made thereunder and the Superintendent, Prohibition and Excise, issued impugned notice, dated 12.02.2018, suspending the license pending enquiry into the case until further orders.

4. A perusal of the impugned proceedings of suspension pending enquiry referred to the facts of selling liquor bottles for high price and

it is referred to violating the condition No.12 of A4 license and the liquor bottles above permissible quantity cannot be sold to an individual as per Rule 35 of the A.P. Excise (Grant of licence of selling by shop and conditions of licence) Rules, 2012, (for short, 'the Rules') and shall not stock IMFL & FL at any place other than the licensed premises for any unauthorised keeping of the stock out side or nearby the license premises, which is a deliberate violation of the License Rules and Condition Nos.1, 10 and 12 of the Form of A4 license and thereby suspended pending enquiry.

5. So far as the suspension pending enquiry concerned, the law is fairly settled right from the Full Bench judgment of this Court in **Tappers Cooperative Society, Maddur v. Superintendent of Excise, Mahabubnagar**¹, reiterated in series of expressions including by the batch of writ petitions disposed by this Court in W.P.No.1359 of 2018, dated 08.02.2018, of giving of show-cause notice not necessary and giving of show-cause notice or any explanation to it is not even a bar to the suspension pending enquiry nor any person can complain about violation of principles of natural justice for not a fundamental right of liquor business or licence, but for a privilege conferred practically a contractual relation and governed by the conditions of licence and Rules. Further, the series of expressions clearly say that for suspension pending enquiry, the twin objects are public interest and loss of revenue to the Government from the abuse of the licence conditions. The impugned proceeding clearly discloses

¹ 1984 (2) APLJ Page 1

that the continuation of the shop for violation of the licence conditions and the Rules supra is detriment to the public interest, thereby suspended with immediate effect.

6. Having regard to the above, there is nothing to interfere with the impugned proceedings, but for to say the order shall not be indefinite, thereby confining to six weeks.

7. Accordingly, the writ petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

20th February 2018

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Dr. B. SIVA SANKARA RAO, J

