

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.5293 of 2018

ORDER:

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

“.....to issue a writ of mandamus or any other appropriate writ or direction declaring the order of the 4th respondent passed in RC.No.228/2017/A6, 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.”

2. Heard learned counsel for the petitioner and 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.

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

19th February 2018

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Dr. B. SIVA SANKARA RAO, J

