

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION Nos.5866 and 5878 of 2018

COMMON ORDER:

The self same petitioner maintained two writ petitions against the self same respondents viz., (1) State of Andhra Pradesh, Revenue Department, represented by Principal Secretary, (2) The Commissioner, Prohibition and Excise, Vijayawada, (3) The Deputy Commissioner of Prohibition and Excise, Vijayawada, (4) The Prohibition and Excise Superintendent, Machilipatnam, and (5) The Station House Officer, Prohibition and Excise Station, Gudiwada.

2. The prayers in the writ petitions read as follows:

(In W.P.No.5866 of 2018)

“..... to issue a writ of mandamus or any other appropriate writ or direction declaring the order of the 4th respondent passed in RC.No.244/2017/A1, 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.”

(In W.P.No.5878 of 2018)

“..... to issue a writ of mandamus or any other appropriate writ or direction declaring the order of the 4th respondent passed in RC.No.244/2017/A1, dt.19.02.2018 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. Heard learned counsel for the petitioner in both the matters and the learned Government Pleader for respondents from oral instructions and perused the prayer in the writ petition supra with supporting affidavit and other material on record including the respective impugned proceedings, dated 12.02.2018 and 19.02.2018.

4. A perusal of the impugned proceedings disclose that there are two crimes pending of Crime No.11 of 2018, dated 26.01.2018 and Crime No.18 of 2018, dated 31.01.2018 under Section 34 of the A.P. Excise Act, 1968, against the petitioner, within a gap of seven days for the clandestine dealing in allowing the liquor instead of selling within the premises licenced by violation of the license condition No. 12 of the A4 license and Rule 35 of the A.P. Excise (Grant of license of selling by shop and conditions of license) Rules 2012 and two persons were found respectively covered by the crimes one D. Subrahmanyam and the other G. Visweswara Rao on the respective dates 26.01.2018 and 31.01.2018 in their selling by secured from the shop of the petitioner 24 IML and 18 IML bottles respectively without seals and the investigation also disclosed that the said IML bottles are related to the shop of the petitioner. Once such is the case, there was interim suspension of the licence granted until further orders by proceedings, 12.02.2018, in relation to Crime No.11 of 2018 and for the subsequent crime again within one week supra covered by Crime No.18 of 2018 there is another order passed of suspension until further orders though earlier order itself is sufficient

in saying the petitioner repeated the said clandestine dealing by violation of license conditions in allowing third parties beyond the prescribed limit of the quantity of IML whisky respectively outside the premises. Thus, though the impugned proceedings no way mention as in the public interest it is clearly visualising that in the public interest the suspension orders are passed. Thereby, there is nothing to interfere with the impugned suspension orders that too further repetition of the crime until further orders, but for to direct the respondents to complete the enquiry and pass final orders within six weeks from the date of receipt of a copy of this order.

5. Accordingly and with the above direction, both the writ petitions are disposed of.

Miscellaneous petitions pending in both the writ petitions, if any, shall stand closed. No costs.

22nd February 2018

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Dr. B. SIVA SANKARA RAO, J