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

Writ Appeal Nos.425 and 426 of 2018

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

We had, in our order in W.A.No.280 of 2018 dated 26.02.2018, referred with approval to the earlier judgments of this Court in **Satyanna Goud vs. Excise Superintendent, Mahboobnagar**[1] and **Sunil vs. Assistant Commissioner of Prohibition and Excise/Excise Superintendent, Twin Cities of Hyderabad, Narayanaguda**[2], and had observed that a licence of an A-4 shop dealer could not be suspended based merely on the confessional statement of the person from whom liquor bottles were seized by the Excise authorities; there must be some link between the A-4 shop dealer and the person from whom the bottles are seized; and there must be some material on record to show that the bottles so seized were sold from the shop of the A-4 licensee whose licence was sought to be suspended.

In the present case also, it is only the confessional statement of the accused which formed the basis for the authorities to suspend the A-4 shop licence of the appellant-writ petitioner. Even though the confessional statement merely states that the seized liquor bottles were purchased by the accused from the A-4 shop of the appellant-writ petitioner, there is no material on record, apart from the confessional statement, to show that these liquor bottles were purchased from the A-4 shop of the appellant-writ petitioner, or that there was some link between the accused and the A-4 shop licensee.

Learned Government Pleader for Prohibition & Excise would submit that, unlike in W.A.No.280 of 2018, in the present case the orders of suspension were passed after the show cause notices were

[1] 1994(2) APLJ 42 (HC)
[2] 1997(4) ALD 625

issued; the appellant-writ petitioner has not even submitted his reply to the show cause notices; copies of the letter, handed over across the bar by Sri O.Manohar Reddy, learned counsel for the appellant-writ petitioner, (which is said to be the reply to the show-cause notices) contain the seal of the Excise Police Station, and an undecipherable signature; their enquiries revealed that this letter has not even been served on the respondents; and, in such circumstances, this Court should refrain from interference.

While asserting that the reply to the show cause notices was, in fact, served on the respondents, and copies thereof were also filed along with the writ petitions, Sri O.Manohar Reddy, learned counsel for the appellant-writ petitioner, would submit that, while the appellant-writ petitioner has no objection for an enquiry to be caused in this regard, the endeavour of the respondents is only to drag on proceedings with a view to deprive the appellant-writ petitioner of his right to carry on business.

The show cause notices, issued by the Excise Superintendent, required the appellant-writ petitioner to show cause why his licence should not be cancelled/suspended under Section 31 of the A.P.Excise Act, 1968. The notices were issued to enable the appellant-writ petitioner to show cause why final orders should not be passed imposing on him the penalty stipulated under Section 31 of the A.P. Excise Act.

While the respondents are not disabled from suspending the licence of an A-4 shop dealer, even after a notice is issued to him calling upon him to show-cause why action should not be taken under Section 31 of the A.P. Excise Act, 1968, the fact remains that, even the show cause notices do not refer to any material to establish a link between the accused and the A-4 shop licensee, apart from the confessional statement of the accused that the seized liquor bottles were purchased by him from the A-4 shop of the appellant-writ petitioner.

Following our order in W.A.No.280 of 2018 dated 26.02.2018, the impugned orders of suspension are set aside. The appellant-writ petitioner shall be permitted to carry on business, in his A-4 shop, in accordance with law. As copies, of the reply to the show cause notices, are enclosed along with the writ appeals, it would suffice if the Prohibition and Excise Superintendent is permitted to pass orders, in accordance with law, taking into consideration the reply submitted by the appellant-writ petitioner to the show cause notices, without awaiting any further reply from him. It is also open to the respondent-officials to cause an enquiry into whether the appellant-writ petitioner's reply to the show cause notices was served on the Excise Police Station on 15.02.2018, as claimed by the appellant-writ petitioner and, thereafter, take necessary action in accordance with law.

The Writ Appeals stand 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)

13th March, 2018
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal Nos.425 and 426 of 2018

Date: 13.03.2018

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