

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.8120 of 2018

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise for respondents and perused the prayer in the writ petition with supporting affidavit and the Division Bench judgment in W.A.No.280 of 2018, dated 26.02.2018.

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.105/2017/A4, dt.1.02.2018 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 supporting affidavit averment that the impugned suspension pending enquiry is with no basis and solely depending upon the so-called confession of the alleged accused of Crime No.5 of 2018, dated 28.01.2018, with no other link, corroborative material even a suspension can be in the public interest and to save the Government revenue, for the allegation of the petitioner's licensee is selling clandestinely liquor for high price out side the A4 licenced premises.

4. The learned Government Pleader submits from the instructions that the panchanama conducted through mediators and panchanama

discloses about the disclosure by the accused of the said crime of the liquor bottles are secured from the A4 shop of the petitioner, which is sufficient for suspension pending enquiry is not a punishment to invoke Section 31 of the Act and show-cause notice already issued and explanation received and they will conduct enquiry and pass final orders under Section 31 of the Act and the impugned order clearly says, it is a suspension pending enquiry until further orders, but for if at all reduce the period or specify the period of suspension.

5. In fact, from perusal of the impugned proceedings, the whole basis is the so-called confession of the accused of Crime No.5 of 2018 and no other material. The Division Bench of this Court in W.A.No.280 of 2018 out come of W.P.No.1359 of 2018, dated 08.02.2018, held referring to the expression of this Court earlier in **Satyanna Goud v. Excise Superintendent, Mahboobnagar¹ and Sunil v. Assistant Commissioner of Prohibition and Excise/Excise Superintendent, Twin cities of Hyderabad, Narayanaguda and another²** that a confession of an accused of a crime cannot be the basis for suspending the licence including pending enquiry.

6. Having regard to the above, the impugned suspension order, dated 01.02.2018, is set aside by left open to complete the enquiry pursuant to the show-cause notice and explanation for passing appropriate orders on merits under Section 31 of the Act, as early as

¹ 1994 (2) APLJ 42 (HC)

² 1997(4) ALD 625

possible, preferably within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is allowed.

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

Dr. B. SIVA SANKARA RAO, J

13th March 2018

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