

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.8308 of 2018

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise on behalf of the respondents and perused the prayer in the writ petition with supporting affidavit and impugned order of the Commissioner-respondent No.2, dated 17.02.2018, and the order of stay until further orders pending the revision passed by the State Government, dated 28.06.2013.

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

“.....to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent No.2 stating that the stay granted in 2013 block period of licence lapsed in 2017, therefore it is clarified that the stay orders are applicable as long as the licence in force vide Cr.No.3969/2017/CPE/E1, dated: 17.02.2018 is illegal, arbitrary, unconstitutional and against the principle of Natural Justice and consequently set aside the impugned letter of instruction/clarification vide Cr.No.3969/2017/CPE/E1 dated:17.02.2018 and pass such other order or orders may deem fit and proper in the circumstances of the case.”

3. Undisputedly, the revision is pending with the Government since early 2013 impugning the order of cancellation of licence issued by the Commissioner, dated 11.01.2013, served on 16.01.2013, impugned in revision on 08.02.2013 in passing the interim order on 28.06.2013 saying the petitioner-Toddy Tapers Cooperative Society is

permitted to run the toddy business of toddy depot and toddy shop Nos.1 to 9 of TCS Gr, Sanga Reddy, until further orders. Though the original licence period is expired by 30.09.2012 and renewed for six months till 31.03.2013 and there is endorsement by the Superintendent, Prohibition and Excise, Ranga Reddy District (respondent No.3) pursuant to the Governments pending revision stay order supra, dated 08.02.2013, until further orders, to run the business of toddy until further orders is permitted. The impugned order of the Commissioner of Prohibition and Excise reads that the renewal application is moved by the society on 01.11.2017 of the licence through S.H.O., Sanga Reddy, for the period 2017-22 by remitting the fees and half month rental and other documents that was submitted through the Deputy Commissioner saying the society was running on the stay granted in 2013 and the block period of licence lapsed in 2017 and clarified that stay orders are applicable as long as the licence is in force and the Commissioner hereby directed the Deputy Commissioner to take necessary action immediately as per rules. In fact, by proceeding, dated 11.10.2012, once the Superintendent, Prohibition and Excise, Sanga Reddy, referring Cr.No.B2/299/2009, dated 28.06.2013 referred of permitted to run the business of toddy until further orders by mentioning as renewal endorsement of the toddy licence for six months. There is, in fact, force in the observation of the Commissioner of the continuation until further orders is so long as there is licence, as a statutory prerequisite. However, to clear the cloud and the Commissioner is also being

bound by the order of the Government as subordinate to the Government should have been sought for clarification in the pending revision with Government as to continue without renewal of licence or not. To put an end to it and clear the cloud, the writ petition itself is disposed of for nothing to keep pending by directing the Government to dispose of the revision within two months from today and in the mean time, the licence shall be renewed or the same shall be continued as usual.

4. With the above direction, the writ petition is disposed of.

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

14th March 2018

Note:

Issue C.C. by tomorrow.

(b/o)

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Dr. B. SIVA SANKARA RAO, J

