

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.18166 of 2018

ORDER:0

Heard learned counsel for the petitioner and the learned Government Pleader for Prohibition & Excise appearing for the respondents.

The order, dated 23.05.2018, passed by the Prohibition & Excise Superintendent, Eluru-fourth respondent herein, suspending the licence of A4 shop of the petitioner herein, vide proceedings in e.File No.192620/2017/A5, is under challenge in the present Writ Petition.

According to the petitioner herein, he is the licensee of A4 shop located at Lakkavaram village, Jangareddigudem mandal, West Godavari District. Alleging violation of condition (1) of A4 shop licence and the provisions of the A.P.Excise (Grant of licence of selling by shop and conditions of licence) Rules, 2012, the fourth respondent herein issued a show cause notice asking the petitioner herein to submit explanation within a period of seven days from the date of receipt of the said notice. Subsequently, vide the impugned proceedings, dated 23.05.2018, fourth respondent herein, in exercise of the powers conferred under Section 31(1) (b) of the A.P.Excise Act, 1968, suspended the licence of the petitioner herein pending enquiry.

The contentions advanced by the learned counsel for the petitioner are two-fold, namely: (1) The impugned action is in total violation of the principles of natural justice and (2) there is no violation of the provisions of the A.P.Excise Act nor the Rules framed thereunder.

On the other hand, it is submitted by the learned Government Pleader that there is no illegality nor there exists any infirmity in the impugned action and, in the absence of the same, the petitioner herein is not entitled for any interference of this Court, under Article 226 of the Constitution of India.

A perusal of the show cause notice, dated 18.05.2018, discloses, in clear and vivid terms, that the fourth respondent herein granted seven days time, from the date of receipt of the said notice, to the petitioner to show cause but the fourth respondent passed the impugned order on 23.05.2018 i.e. even before the expiry of the said period. In the considered opinion of this Court the said action, on the part of the fourth respondent herein, is a patent violation of the principles of natural justice.

Having granted seven days' time to file explanation to the show cause notice, this Court finds no justification on the part of the fourth respondent in issuing the impugned order even before the expiry of the said period. On the said ground alone the Writ Petition is liable to be allowed.

Accordingly, the Writ Petition is allowed, setting aside the impugned proceedings, in e.File No.192620/2017/A5, dated 23.05.2018, issued by the fourth respondent, and the petitioner herein is granted one week time to file explanation before the fourth respondent herein, in response to the show cause notice, dated 18.05.2018, and, if any such explanation is filed, within the time stipulated above, the fourth respondent is at liberty to pass orders afresh after considering the same. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

05th June, 2018
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A.V.SESHA SAI,J

