

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

WRIT PETITION No.18364 of 2018

ORDER:

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

The order of suspension of A4 shop licence of the petitioner herein, passed by the Prohibition & Excise Superintendent, Penukonda-fourth respondent herein, vide proceedings in Rc.No.211/2018/B1, dated 25.05.2018, is under challenge in the present Writ Petition.

The only contention raised by the learned counsel for the petitioner is that the impugned order of suspension is contrary to the proviso to Section 31 (1) of the A.P.Excise Act, 1968 (for brevity, 'the Act'). Section 31 of the Act deals with the power to cancel or suspend licence.

According to the said provision of law, the authority, granting any licence or permit, is authorised either to cancel or suspend the licence and, as per the proviso to Section 31 of the Act, before resorting to such final action, but not pending enquiry, opportunity of making representation against the proposed action is required to be given to the licence holder. It is the specific case of the petitioner herein, as advocated by the learned counsel for the petitioner, that the impugned order

came to be passed by the fourth respondent herein without giving any opportunity to the petitioner herein.

A perusal of the impugned order discloses that the same is not an order pending enquiry. The impugned order also does not disclose issuance of any show cause notice before resorting to the impugned action.

In view of the statutory mandate, as provided under the proviso to Section 31 (1) of the Act, the order of suspension passed by the fourth respondent herein, which is impugned in the present Writ Petition, cannot be sustained in the eye of law.

Accordingly, the Writ Petition is allowed, setting aside the order passed by the Prohibition & Excise Superintendent, Penukonda-fourth respondent herein, vide proceedings in Rc.No.211/2018/B1, dated 25.05.2018. However, it is open for the respondents herein to proceed in accordance with law, if they are advised to do so. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

14th June, 2018
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A.V.SESHA SAI,J