

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.6867 of 2015

Order:

This Writ Petition is filed to declare the issuance of licence No.16, dated 07.03.2015, by the third respondent in favour of the fourth respondent for sale of Toddy at premises No.18-5-116 to 120, Lal Darwaza, Hyderabad, as illegal and arbitrary.

The case of the petitioner - School is that it is a private recognized English Medium School started in the year 2009; when an attempt was made to establish the Toddy shop adjacent to the School, a Writ Petition No.40568 of 2014 was filed on the ground that the proposed toddy shop was within the residential area and very close to the petitioner School; when the said Writ Petition came up for hearing, learned Government Pleader represented that no toddy shop proposals were received in the office of the third respondent and no toddy shop licence was granted, hence the said Writ Petition was disposed of with an observation that no orders are required to be passed; after disposal of the said Writ Petition, the District Educational Officer, Hyderabad, derecognized the petitioner – School on 21.02.2015, so as to facilitate to establish the toddy shop; questioning the same, the petitioner filed W.P.No.5259 of 2015 and this Court, by order dated 04.03.2015, suspended the said proceedings and the petitioner School is functioning; as per Rule 8(1) of the A.P. Excise (Grant of Licence to sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007, licence shall not be granted for sale of toddy within 100 meters from educational institution recognized by the Government; the third respondent has deliberately granted licence in favour of the fourth respondent on 07.03.2015 which is 45 meters away

from the petitioner School; though the petitioner submitted a representation dated 10.03.2015 to the respondents 2 and 3 for cancellation of the licence, but no action has been taken so far; hence the Writ Petition.

Counter affidavit has been filed by the fourth respondent stating that the subject premises have been inspected by the excise officials and found that the premises are suitable for grant of licence; the petitioner School is not having students as per the norms and that the School is usually closed; the school has been derecognized by the District Educational Officer on 21.02.2015.

When the matter is taken up for hearing today, learned counsel for the petitioner passed on a renewal endorsement dated 18.12.2017 issued by the office of the District Prohibition and Excise Officer, Hyderabad, renewing the licence granted to the fourth respondent under Rule 6 of the Telangana Excise (Grant of Licence to sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules 2007 for a period of five (5) years with effect from 01.10.2017 to 30.09.2022. The contention of the learned counsel for the petitioner is that in spite of repeated representations and complaints, no action is being taken by the third respondent and the licence granted to the fourth respondent has been renewed for a further period of five years from 01.10.2017 to 30.09.2022. He further contends that challenging the de-recognition of the petitioner's school, the petitioner filed W.P.No.5259 of 2015 and this Court, by order dated 04.03.2015, suspended the said order and in spite of suspension of the order of de-recognition, the third respondent has renewed the licence to the fourth respondent.

As per Rule 8 of the Telangana Excise (Grant of Licence to sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules 2007, the toddy shop premises should be at least 100 meters away from the places of public worship and educational institutions etc. The petitioner also made representations stating that the school is situated nearby the shop premises, thus, it is not desirable to continue the toddy shop at that place. In spite of the same, the respondents have granted renewal to the fourth respondent on 18.12.2017. However, the present Writ Petition is filed to declare the proceedings dated 07.03.2015 granting licence for sale of toddy for the period from 07.03.2015 to 30.09.2017 and the said period of licence has already been expired. In view of the same, the Writ Petition itself becomes infructuous.

However, as the renewal of licence has been granted on 18.12.2017, liberty is given to the petitioner to file a detailed representation to the third respondent setting forth his grievances including the fact that the order of de-recognition of the petitioner school was suspended in Writ Petition No. 5259 of 2015 and, on such representation being made, the third respondent shall consider the same and take appropriate action in accordance with law.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

KONGARA VIJAYA LAKSHMI, J.

Date: 23.11.2018
 Note:
 Issue CC in one week
 (B/O)
 Nsr

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Nsr