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

WRIT PETITION No.24512 of 2018

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India, for the following relief:

> *"To issue an appropriate Writ Order or Direction more particularly one in the nature of Writ of Mandamus to declare the impugned order passed by the 1st respondent dt 16.05.2018 in Memo No 19605/Ex II 2/2017-2 rejecting the revision petition filed by me, upholding the orders passed by the 2nd respondent dt 26.07.2017 in Cr.No.6643/2016/CPE/TS/D1 (wrongly mentioned as Cr.No.3963/2017/CPE/TS/D21 dt 10.01.2018) and the orders of the 3rd respondent dt 25.10.2016 in Cr.No.245/2016/P & Ex./B2 as being illegal arbitrary and unjust and consequently set aside the same."*

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

The Deputy Commissioner of Prohibition and Excise, Warangal Division-third respondent herein passed an order, dated 25.10.2016, in Cr.No.245/2016/P&Ex./B2, in exercise of the powers conferred under Section 13 (2) of the A.P. Prohibition Act, 1995 and under Section 46 (2) of the A.P Excise Act, 1968, ordering confiscation of the contraband i.e., 6500 Kgs of Jaggery. As against the said order, petitioner herein preferred a statutory appeal before the Commissioner of Prohibition and Excise-second respondent herein. The Commissioner of Prohibition and Excise, vide order bearing Cr.No.6643/2016/CPE/TS/D1, dated 26.07.2017, dismissed the said appeal confirming the order passed by the primary authority-third respondent herein. Questioning the validity of the said orders, passed by the primary and the appellate authorities, the petitioner herein filed a revision before the first respondent-State Government. The first respondent-State Government, vide Memo No.19607/Ex.II (2)/2017-2, dated 16.05.2018, dismissed the said revision and thereby upheld the orders passed by the primary and appellate authorities. This Writ Petition challenges the validity and the legal sustainability of the said orders passed by the revisional, appellate and primary authorities.

According to the learned counsel for the petitioner, the orders impugned are highly illegal, arbitrary and unreasonable and opposed to the very spirit and object of the provisions of the Telangana Excise Act and the Rules framed thereunder. It is submitted by the learned counsel that the first respondent-State Government passed the impugned order, dated 16.05.2018, without assigning any reasons and without considering the contents of the revision filed by the petitioner herein.

On the other hand, it is vehemently contended by the learned Government Pleader that there is no illegality nor there exists any infirmity in the impugned action and as such the orders impugned are not amenable for judicial review under Article 226 of the Constitution of India.

A perusal of the Memo, dated 16.05.2018, issued by the State Government, dismissing the revision, filed by the petitioner herein, in clear and vivid terms, discloses that the first respondent-State Government failed to consider various issues raised by the petitioner herein in the revision and, simply, basing on the instructions offered by the second respondent-Commissioner, came to the conclusion against the petitioner herein and did not undertake any assessment of the issues independently.

It is a settled and well established principle of law that the orders of the quasi judicial authorities should necessarily be supported by valid and convincing reasons and in the instant case the same is followed in breach.

Therefore the impugned Memo, dated 16.05.2018, by virtue of which the first respondent rejected the revision of the petitioner herein, cannot be sustained in the eye of law. In the considered opinion of this Court, the matter requires re-consideration by the revisional authority, after taking into account the contents of the revision and the contentions advanced therein.

For the aforesaid reasons, the Writ Petition is allowed, setting side the orders of the State Government, vide Memo, dated 16.05.2018, and the revision, filed by the petitioner herein, stand restored to file for fresh consideration of the same by the first respondent, strictly in accordance with law, after giving notice and affording opportunity of hearing. It is also made clear that the revision shall be disposed of by the first respondent within a period of two months from the date of receipt of a copy of this order.

As a sequel, the miscellaneous petitions, if any, shall stand closed.

A.V.SESHA SAI,J

17th July, 2018
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