

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.27921 of 2016

Date : 5.3.2018

Between:

Toddy Tappers Cooperative Society
Ananthapur
Rep by its President
A Balaram Goud S/o late A Buchanna Goud
46 years R/o Ananthapur village, Gadwal mandal,
Mahabubnagar district

Petitioner

And

State of Telangana
Rep through its Secretary
Department of Revenue Excise
Secretariat, Hyderabad and others

Respondents

The Court made the following:



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ORAL ORDER:

Petitioner society was granted license bearing No.G/05/2007-08 dated 5.3.2015 valid upto 30.9.2017. It appears raid was conducted on 11.7.2015 and samples of toddy were collected. Alleging that there was adulteration of toddy, crime was registered against Raman Goud, Balaram Goud and Timmappa Goud. On 27.5.2016 show cause notice was issued calling upon the petitioner to explain as to why the license of petitioner society should not be suspended pending enquiry, criminal action and cancellation of license. Petitioner society submitted explanation on 17.6.2016. On 29.7.2016 final order was passed suspending the license of the petitioner. This final order is challenged in this writ petition.

2. At the stage of admission, this Court was informed that there was interpolation of names of Balaram Goud and another person and this was deliberately done only to implicate those two persons. Taking note of the said contention and on examination of the crime occurrence report, the Court granted interim suspension. Praying to vacate the said interim suspension this petition is filed. When the matter is taken up for consideration, learned counsel for petitioner pointed out that though explanation was submitted by the petitioner to the show cause notice issued on 27.5.2016, there is no whisper on the contents of the explanation filed by him and therefore the order is vitiated on this ground alone.

3. Bare perusal of the order would show that the competent authority holds that no explanation was filed by the petitioner even though show cause notice was served. Thus, explanation offered by petitioner was not considered before taking adverse decision against petitioner. Copy of explanation dated 16.6.2016 is placed on record as

Ex.P.2 and on second page of this explanation there is acknowledgment of receipt of copy by the office of Prohibition and Excise Superintendent, Gadwal, Mahabubnagar district on 17.6.2016. If that is so, statement made in the order impugned that no explanation was filed is erroneous. Having received explanation, the competent authority could not have passed order without considering the explanation submitted by petitioner. The order impugned has serious civil consequences to petitioners. Therefore, minimum requirement is to consider the explanation offered and pass reasoned order. Thus, on this ground the order impugned is liable to be set aside and matter to be remitted for fresh consideration. All the learned counsel agree for disposal of the writ petition with direction to consider the explanation offered by petitioner and to pass orders by fixing time frame. As the order impugned is found vitiated as explanation offered by petitioner was not considered, all other submissions made by the learned counsel are not gone into and left open for the parties to agitate in appropriate proceedings.

4. The order dated 29.7.2016 is set aside and matter is remitted to the Superintendent, Prohibition and Excise, Gadwal/second respondent herein to consider explanation of petitioner dated 16.6.2016 and to pass appropriate orders as expeditiously as possible, preferably within a period of three weeks from the date of receipt of copy of this order. Since the writ petition is finally disposed, pending miscellaneous petitions are closed.

DATE: 5.3.2018
TVK

P NAVEEN RAO,J

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