

HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No. 25031 of 2018

ORDER:

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

The order of suspension of 2B licence issued by the Prohibition and Excise Superintendent, Kadapa - respondent No.3, vide proceedings in Rc.No.A1/334/2017 dated 17.07.2018, in exercise of the powers conferred under Section 31(1)(b) of the Andhra Pradesh Excise Act, 1968 (for short 'the Act') pending enquiry, is under challenge in the present Writ Petition.

Petitioner herein is a licensee of 2B Bar and Restaurant for a period of five years commencing from 01.07.2017 to 30.06.2022. Respondent No.3 issued a show cause notice bearing Rc.No.A1/334/2017 dated 18.06.2018 alleging violation of Rules 24 and 25 of the A.P.Excise (Grant of Licence of selling by Bar and conditions of Licence), Rules, 2017 (for short 'the Rules') while calling upon the petitioner to show cause as to why the subject licence should not be suspended. In response to the said show cause notice, petitioner herein submitted explanation on 13.07.2018. Eventually, respondent No.3 passed the impugned proceedings in Rc.No.A1/334/2017

dated 17.07.2018, under Section 31(1)(b) of the Act, suspending the licence of the petitioner herein pending enquiry.

It is contended by the learned counsel for the petitioner that the offences, alleged against the petitioner herein, do not attract Rules 24 and 25 of the Rules since the seized stock from 2B Bar and Restaurant pertain to the previous licence period purchased from the Beverages Corporation. It is also submitted by the learned Counsel that the stock found in the house also does not belong to 2B Bar and Restaurant and pertains to A4 licensee.

On instructions, it is submitted by the learned Government Pleader for Prohibition and Excise that the raid party verified the liquor stock with the E-apkari app and scanned the heels of the petitioner's licensed premises and residence and found that the seized stock pertains to M/s.Kanna wines, G.Sl.No.29, Kadapa, which licence was held by Sri.R.Malla Reddy, who is no other than the husband of the petitioner herein, during the period 2015-2017. It is also submitted by the learned Government Pleader that the Commissioner of Prohibition and Excise, Andhra Pradesh, Vijayawada, vide Cr.No.4042/2017/CPE /E2 dated 31.07.2017 issued instructions to all the A4 licensees to surrender the stocks after the expiry of lease year 2015-2017 and, accordingly, the Prohibition and

Excise Inspector, Kadapa issued notice to all A4/2B licensees on 26.06.2017 asking to surrender the balance liquor stocks as on 30.06.2017 and the said notice was served on M/s. Kanna Wines on 26.06.2017.

It is also evident from the explanation offered by the petitioner, in response to the show cause notice on 13.07.2018, that Sri R.Malla Reddy kept the stock of previous year in the next current year in the subject bar premises due to ignorance of conditions and Rules. In the said explanation, petitioner also stated that, without her knowledge, Sri R.Malla Reddy kept the old stock in the bar premises. The submission of the learned counsel for the petitioner that the stock seized in 2B Bar pertains to the previous year cannot be verified by this Court in exercise of the powers conferred under Article 226 of the Constitution of India. The said exercise has to be undertaken by the authorities under the statute after due enquiry. Since the impugned order is only an order of suspension pending enquiry, and a number of facts and controversies are required to be verified, this Court deems it appropriate to dispose of the writ petition with a direction to respondent No.3 to complete the enquiry and pass final orders, pursuant to the show cause notice bearing Rc.No.A1/334/2017 dated 18.06.2018, taking into consideration the explanation offered by the petitioner on

13.07.2018, as expeditiously as possible, preferably within a period of three weeks from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

A.V.SESHA SAI,J

Date: 02.08.2018
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