

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

WRIT PETITION No.25292 of 2018

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleaders for Excise and Home appearing for the respondents.

The order, dated 09.07.2018, passed by the Deputy Commissioner of Prohibition and Excise, Mahaboobnagar-second respondent herein, vide Cr.No.B2/652/2015, is under challenge in the present Writ Petition.

Pending confiscation proceedings, petitioner herein filed an application on 31.05.2018 before the second respondent herein, requesting to release the Black Jaggery. The second respondent, vide the impugned proceedings, dated 09.07.2018, rejected the said application.

According to the learned counsel for the petitioner, the impugned order is highly illegal, arbitrary and violative of Article 14 of the Constitution of India.

On the other hand, it is submitted by the learned Government Pleaders that there is no illegality nor there exists any infirmity in the impugned order and, in the absence of the same, the impugned order is not amenable for any judicial review, under Article 226 of the Constitution of India.

A copy of the application, filed before the second respondent, seeking release of Jaggery, is filed along with the

Writ Petition. A perusal of the impugned order, in clear and vivid terms, discloses that, except referring to the application of the petitioner herein, the second respondent herein did not make any endeavour to consider the contents of the application, filed by the petitioner herein. This exercise, undertaken by the second respondent, in the considered opinion of this Court, cannot be sustained in the eye of law and the matter requires re-consideration by the second respondent in accordance with law.

For the aforesaid reasons, Writ Petition is allowed, setting aside the order, passed by the second respondent herein, vide Cr.No.B2/652/2015, dated 09.07.2018, and the matter is remanded to the second respondent for fresh consideration of the application of the petitioner herein, for release of the stock, strictly in accordance with law, and the second respondent herein, while passing the order, shall assign reasons also and dispose of the application, so remanded, as expeditiously as possible, preferably within a period of three weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

06th August, 2018.
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A.V.SESHA SAI, J