

**THE HONOURABLE SRI JUSTICE A.V.SESHA SAI**

**WRIT PETITION No.26361 of 2018**

**ORDER:**

Heard learned Counsel for the petitioner and the learned Government Pleader for respondents.

2. An Order of suspension of A.4 shop, passed by the Prohibition and Excise Superintendent, SPSR Nellore/R.3, vide proceedings No.Rc.No.164/2017/A2, dated 23.07.2018, is under challenge in the present Writ Petition.

3. According to the learned Counsel for the petitioner, the impugned action is highly illegal, arbitrary and violative of principles of natural justice. In elaboration, it is further contended that the impugned Order came to be issued merely on the basis of the confessional statement of A.9 during the course of investigation in Cr.No.65 of 2018 on the file of Prohibition and Excise Station, Kanigiri.

4. On the other hand, it is submitted by the learned Government Pleader that there is no illegality nor there exists any infirmity in the impugned action, and in the absence of the same, the Writ Petition is not maintainable and the petitioner is not entitled for any relief under Article 226 of the Constitution of India. It is further submitted by the learned Government Pleader that the impugned Order is appealable under Section 63 of the A.P.Excise Act, 1968, and without availing the same, the present Writ Petition is filed before this Court directly and on this ground alone, the Writ Petition is liable to be rejected.

5. Followed by a raid and registration of Crime No.65 of 2018, on the file of the S.H.O., Prohibition and Excise Station, Kanigiri, and after recording the statement of A.9, the impugned Order came

to be passed by the Prohibition and Excise Superintendent. It is also clear from the impugned suspension order that on 16.07.2018, at about 2.00 p.m., the S.H.O., Prohibition and Excise Station, Kanigiri, detained the petitioner herein, who admitted his involvement in the crime and after recording the said reasons, the Prohibition and Excise Superintendent issued the impugned Order of suspension. Having regard to the gravity of the allegations, this can be verified by a fact finding authority, and this Court is not inclined to go into the legality of the impugned Order, in exercise of the jurisdiction under Article 226 of the Constitution of India. It is also to be noted that against the orders impugned, appeal lies before the Deputy Commissioner of Prohibition and Excise under Section 63 of the A.P.Excise Act, 1968.

6. Since the enquiry is pending, this Court deems it appropriate to dispose of the Writ Petition, with a direction to the Prohibition and Excise Superintendent, Nellore, to complete the enquiry and pass final orders, within a period of four weeks from the date of receipt of a copy of this Order. It is also made clear that the petitioner is entitled to file appeal under Section 63 of the A.P.Excise Act, 1968, and if any such appeal is filed by the petitioner, the same be considered and pass appropriate Orders on the appeal.

7. Miscellaneous Petitions pending consideration, if any, in this Writ Petition shall stand closed. There shall be no order as to costs.

**JUSTICE A.V.SESHA SAI**

Date :13.08.2018  
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