

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 30350 OF 2018

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the proceedings of the second respondent issued vide Circular No.5012/ 2018/ CPE/ E2, dated 16.08.2018, as illegal, without jurisdiction and unconstitutional.

2) The averments in the affidavit filed in support of the writ petition would show that in the excise policy for the period from 01.07.2017 to 30.06.2019, the Government has notified four IMFL & FL Shops to be allotted by draw of lots for Lingasamudram Mandal. Out of those, one shop was allotted to Pedapavani, one shop to Veeraraghavuni Kota and two shops to Lingasamudram. As a highest bidder, A-4 shop at Pedapavani Village with Licence bearing No. PR/ 152/ 2017-19 in the premises bearing No.6-46 at Pedapavani Village was allotted to the petitioner, who started running the sand in the name and style of M/s. Sri Vamsi Wines. Similarly, fifth respondent was permitted to establish A-4 shop at the premises bearing No.2-50 for sale of IMFL & FL, in the name and style of M/s. Amrutham Wines, at Veeraraghavunikota vide proceedings dated 30.06.2017. Subsequently, the fifth

respondent approached the respondents 3 and 4 for shifting of the licence premises bearing No.2-50 to 1-142 from Veeraraghavuni Kota to Pedapavani Village. On coming to know about the efforts of the fifth respondent in shifting his licence premises to Pedapavani, the villagers raised objections for location of the second shop at Pedapavani, as there is already a lot of commotion in the village. Ignoring the objections, the third respondent has recommended the Commissioner for shifting of A-4 shop from Veeraraghavuni Kota to Pedapavani. The second respondent accorded permission for shifting the A-4 licence shop. It is stated that for the reasons best known the fifth respondent again approached respondents 3 and 4 for shifting of A-4 licence shop from the licensed premises 1-142 to 6-46 of Pedapavani Village on the ground that the public has raised an objection for locating A-4 shop in the licensed premises at 1-142. Hence, the petitioner raised an objection on 11-06-2018 as it affects his business. The petitioner also submitted another representation, explaining the consequences of shifting of the license premises from 1-142 to 6-46. It is stated that without considering the same, the respondents 3 and 4 have mechanically accepted the request of the fifth respondent and recommended shifting of the licence premises from 1-142 to 6-46. Thereafter, the second respondent approved shifting

of the licence premises. The grievance of the petitioner is that without considering the objections raised by the petitioner, permission for shifting of A-4 licence shop granted.

3) As stated by me earlier, the only ground urged by the learned counsel for the petitioner is that without considering the objections raised by the petitioners, the second respondent approved for shifting the license premises from bearing No.1-142 to 6-46 of Pedapavani village.

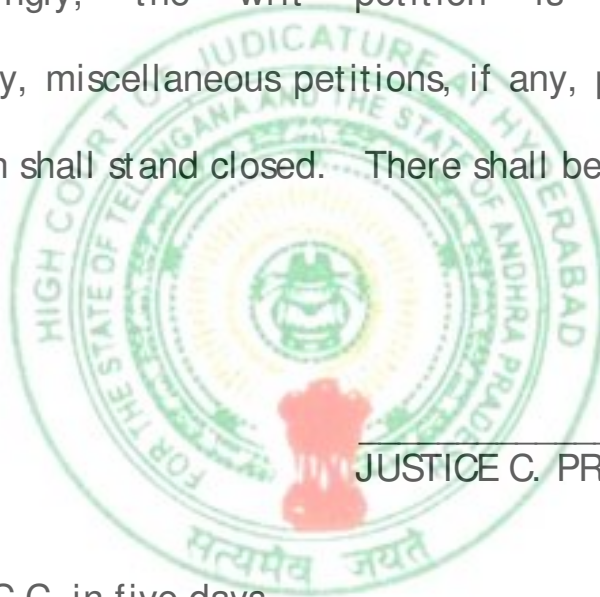
4) By an order dated 27.08.2018, this Court while admitting the writ petition, granted interim suspension for shifting the A4 licence. Thereafter, vacate stay application came to be filed.

5) At the time when the matter is taken up for hearing, learned counsel appearing for the petitioner as well as the fifth respondent agreed for disposal of the writ petition with a direction to the respondents to consider the objections raised by the petitioner with regard to shifting of A-4 licence shop and pass orders in accordance with law. Even the Government Pleader for Excise did not object for the same.

6) Having regard to the above and since the impugned order came to be passed without taking into consideration the objection raised by the petitioner, who is having a licenced shop in the same area, the order under challenge is *set aside*

and the matter is remanded back to the Commissioner of Prohibition and Excise, A.P., Amaravathi, Vijayawada (second respondent) to deal with the matter afresh by taking into consideration the objections raised by the petitioner and pass orders in accordance with law, after hearing all the concerned, as early as possible, preferably within a period of four to six weeks from the date of receipt of a copy of the order.

7) Accordingly, the writ petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.



JUSTICE C. PRAVEEN KUMAR

13.12.2018

Note: Issue C.C. in five days.

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