

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

WRIT APPEAL No.1328 of 2018

Judgment: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

We have heard Sri K.G. Krishna Murthy, learned Senior Counsel for the appellant. We have also heard Sri N. Siva Reddy, learned counsel appearing for the 5th respondent as well as the learned Government Pleader for Prohibition and Excise appearing for the official respondents.

2. The 5th respondent applied for shifting his IMFL outlet. That was refused by the Commissioner of Prohibition and Excise Department in the Government of Andhra Pradesh. Later, he made a different application. That was considered on the premise that the shifting sought for through that application related to a different premises and that the premises which was originally available had become dilapidated. On facts, the Commissioner found that the second application of the 5th respondent was eligible to be granted. Though we call it as a second application, it is essentially an application for shifting to a different premises. This is how the Commissioner has understood the facts of the case and had passed an order in terms of his statutory power.

3. The decision of the Excise Commissioner allowing the shifting of shop was challenged by the appellant before the learned Single Judge. The learned Single Judge, applying the relevant legal principles governing trade in liquor, refused to interfere with the decision of the Commissioner. Hence, this Writ Appeal.

4. The learned Senior Counsel appearing for the appellant argued that the decision rendered by the Commissioner in the first round had become final in as much as no statutory revision was carried by the

5th respondent before the Government though there is a rule enabling the invoking of Government's revisional jurisdiction and power. Having noticed the facts of the case as above, firstly the situation is where the second application was not in relation to facts and reasons, which led to the first order. That apart, in matters relating to management of the domain of the Prohibition and Excise, through controlling and regulating trade in liquor, the Rules provide due guidance for the Commissioner and the State to act in the best interest of the management of such affairs. There is no fundamental right which could be pushed except to say that the decision taken is in complete conflict with the statutory rules in place, in cases where the facts and files disclose such situation. We see no such situation in the facts of the present case. Hence, we see no illegality or error of jurisdiction in the decision of the learned Single Judge.

5. The Writ Appeal fails and is dismissed.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V. BHATT, J

Date: 5th October, 2018

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