

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 39385 of 2018

ORDER:

1) The present Writ Petition came to be filed seeking issuance of writ of certiorari to quash the proceedings of the first respondent in G.Sl.No.15/2017 dated 30.10.2018 and direct the respondents not to obstruct the petitioner from carrying on its retail wine shop business as per licence No.15/2017-19.

2) A perusal of the material on record would show that the petitioner is the Managing Partner of M/s. G.R.C. Wines, which is a retail wine shop holding A4 licence for the licenced premises situated at Nandivelugu road, Guntur for the period from 2017 to 2019. The petitioner has also taken a separate licence for running a permit room in Form-A4 (B) by paying a separate fees of Rs.5,00,000/- for the above said period. It is submitted that the order of suspension of his wine shop was made by the first respondent on 01.10.2018 on an allegation that an FIR came to be registered in Cr.No.40 of 2018 pursuant to a ride on 30.09.2018 wherein the panchanama reveals that the petitioner has sold one bottle of Mansion House Premium French Brandy 180 ml. bottle to the decoy for Rs.130/- MRP rate and collected Rs.5/- excess, in the name of service charge. The panchanama prepared on 30.09.2018 shows that the bottle was sold for Rs.130/- which is

the MRP and the collection of Rs.5/- was on account of providing service to the customer in the permit room. It is stated that on the allegation that the petitioner has sold the liquor bottle at a rate higher than the MRP, the licence of the petitioner was suspended. Aggrieved by the same, the petitioner filed W.P.No.3983 of 2018 which was disposed of by this Court directing the respondent to conduct enquiry within two weeks, failing which the suspension order shall become inoperative. Assailing the same the petitioner preferred an appeal under W.A.No.1423 of 2018, which was disposed of on 25.10.2018 directing the first respondent to finalize the matter within one week. Thereafter, the first respondent issued a show cause notice dated 25.10.2018, for which the petitioner has submitted his explanation. On 30.10.2018, the first respondent passed the impugned order suspending the licence of the petitioner until further orders, which lead to filing of the present writ petition.

3) Sri Vedula Venkata Ramana, learned Senior Counsel appearing for the petitioner would contend that the impugned order is liable to be set-aside on the ground that suspension of licence cannot be for an indefinite period. He further contend that there is no evidence on record to show that the extra sum of Rs.5/- (five rupees only) alleged to have been collected was towards MRP.

4) Insofar as the sale of Mansion House Premium French Brandy, at a price above the M.R.P. is concerned, the panchanama which was prepared at the scene of offence would prima facie indicate that an additional amount of Rs.5/- was collected for the purpose of using the permit room and not towards the cost of the liquor bottle. It would be appropriate to extract the relevant portion of the panchanama, which is as under:

"On....."

"On verification of the bottle "Mansion House Premium French Brandy 180 ml. B.No.61 dated 25.09.2018 MRP Rs.130/- was printed. On verification of the seal of the bottle cap, it was printed as 16211808120865992. When questioned the Nowkarnama why you have collected Rs.5/- excess over the MRP price, he stated that the bottle purchaser has informed that he will consume the liquor bottle in the permit room as such Rs.5/- excess was collected from him. When questioned the same matter from the bottle purchaser, he has agreed that he informed the Nowkarnama that he will consume the liquor bottle in the permit room."

5) Learned Government Pleader for Prohibition and Excise (A.P.) would submit that the order impugned prima facie appears to be illegal as the license could not have been suspended for an indefinite period. According to him, had it been a case of cancellation of licence, he could have passed an order canceling the same without fixing the time. But, if it is the case of suspension, the proper course would be to fix a time limit.

6) Having regard to the statement made above, the impugned order is set-aside and the matter is remanded to Prohibition and Excise Superintendent, Guntur to pass an appropriate order uninfluenced by the observation made, if any, in accordance with law after hearing all concerned. It is needless to mention that the petitioner herein shall be allowed to run the shop in accordance with the terms and conditions of the license till then.

7) With the above observation, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel to it, miscellaneous petitions pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:01.11.2018
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