HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 40652 of 2018

ORDER:

The present writ petition came to be filed seeking the following relief:

> "To declare the impugned proceedings vide Rc.No. 293/2017/A3, dated 30.10.2018 on the file of the 3rd respondent as illegal, void and arbitrary and violating the provisions engrafted to A.P. Excise Act and Rules made thereunder; consequently to set aside the proceedings vide Rc.No. 293/2017A3, dated 30.10.2018 on the file of the 3rd respondent.

2. The averments in the affidavit filed in support of the petition would show that the 3rd respondent, vide orders dated 06.07.2017, granted A4 licence to the petitioner to sell all kinds of Indian made foreign liquor and foreign liquor in the premises at D.No. 20-18/1-31, Dharmapuri Road Junction, Vizianagaram, Vizianagaram district, vide Licence No. 103/2017-2019, in the name and style of M/s. Sri Surya Wines. While matters stood thus, on 15.10.2017, the Assistant Commissioner of Prohibition and Excise, along with his staff, visited the establishment of the petitioner and found diluted liquor bottles. After verifying the strength of the liquor with the help of hydrometer, a show cause notice came to be issued to the petitioner on 19.10.2018, apart from registering a case in Crime No. 107 of 2018 under Section 36(1) (b) & (c) of the A.P. Excise Act, 1968 read with Rule 37 of the A.P. Excise Rules, 2012. To the show cause notice, the

petitioner herein is said to have submitted his explanation on 29.10.2018.

3. The grievance of the petitioner is that without considering the explanation submitted by him, the impugned order dated 30.10.2018 came to be passed, suspending his licence with immediate effect, pending investigation of the case. This action is challenged in the present writ petition, on the ground that the 3rd respondent did not consider the explanation of the petitioner, as there is no reference to the said explanation in the impugned order. It is further stated that suspending the licence pending investigation is arbitrary, since suspension of licence cannot be for an indefinite period.

4. The learned Government Pleader for Revenue, on instructions, states that though the impugned order dated 30.10.2018 does not indicate consideration of the explanation submitted by the petitioner on 29.10.2018, but the same cannot be said to be illegal and improper, as there is a reference to it in the order.

5. A perusal of the impugned proceedings would show that though there is reference to the explanation dated 29.10.2018 submitted by the petitioner, the contents of the said explanation have not been discussed, except stating that the same is not convincing. This does not satisfy the requirement of the law, as the authority ought to have stated, as to how the grounds raised in the explanation of the petitioner are incorrect or not

satisfactory. Apart from that, suspension of the licence cannot be for an indefinite period.

6. Having regard to the above, the writ petition is disposed of, setting aside the order under challenge, and remanding the matter to the 3rd respondent to pass appropriate orders in accordance with law, taking into consideration the contents of the explanation submitted by the petitioner on 29.10.2018. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

12.11.2018
DMG