

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 40612 of 2018

ORDER:

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in suspending the licence of the petitioner for the A4 shops in the name and style of M/s. Sri Wines, Hindupur, vide orders dated 03.11.2018, as illegal, arbitrary and improper.

2. Heard the learned counsel for the petitioner and Sri B.Devanand, learned Government Pleader for Excise.

3. As seen from the record, a show cause notice came to be issued in the month of July, 2018, asking the petitioner to explain as to why action should not be initiated against the licence possessed by him, for violation of Rule 37 of the A.P. Excise (Lease of Right of Selling by Shop and Conditions of licences) Rules, 2012. An explanation came to be submitted to the said notice on 24.08.2018, and thereafter, the impugned order dated 03.11.2018 came to be passed, suspending the licence of the petitioner in public interest and pending enquiry into the case. The learned counsel for the petitioner challenges the same, on the ground that suspension of the licence cannot be for an indefinite period, and after calling for the explanation of the petitioner, the question of placing the licence under suspension pending enquiry, does not arise.

4. The learned Government Pleader for Excise opposed the same, contending that there is no illegality in the impugned order.

5. It is well established that a licence can be suspended only for a limited period and it cannot be suspended indefinitely. Apart from that, the impugned order shows that an enquiry is still pending, which appears to be incorrect, for the reason that pursuant to the notice issued in July, 2018, an explanation came to be submitted by the petitioner in the month of August, 2018, and thereafter, the impugned order came to be passed. Therefore, the question of proceedings being pending, and suspension of licence pending enquiry, may not be correct.

6. Having regard to the above, the order under challenge is set aside, and the matter is remanded back to the Prohibition and Excise Superintendent, Penugonda, directing him to pass fresh orders, in accordance with law. 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