

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.34748 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner, seeking verbatim the following relief:

‘..to issue a Writ, order or direction, more particularly in the nature of Writ of Mandamus, declaring the action of the 5th respondent, in addressing a Letter to the 4th respondent, dated 3.10.2017, rejecting the request made by the petitioner to shift the premises from Door No.2-269, South Post Office Road, Renigunta to Door No.3-153 and 154, Bazar Street, Renigunta, and instructed the petitioner-Licensee of M/s.Chenchu Wines to submit a proposal for new premises which is in accordance with Rule 25 of the A.P. Excise (Grant of Licence of Selling by shop and conditions of Licence) Rules, 2012, is illegal, arbitrary, contrary to law and unconstitutional, and set aside the same, and consequently direct the 5th respondent, to permit the petitioner to shift the premises from Door No.2-269, South Post Office Road, Renigunta to Door No.3-153 & 154, Bazar Street, Renigunta, as per the Form A-4 Licence, vide L.No.CT/268/2017-19, dated 4.8.2017, issued by the 4th respondent.’

I have heard the submissions of *Sri V. Satyam Reddy*, learned senior counsel representing *Sri V. Vijaya Rama Raj*, learned counsel for the petitioner, and of the learned Government Pleader for Prohibition & Excise appearing for the respondents. I have perused the material record.

From the submissions, the following facts are discernable: ‘The petitioner made a request to the 2nd respondent-Commissioner of Prohibition & Excise for permission to shift the petitioner’s shop from the premises bearing Door No.2-269 South Post Office Road, Renigunta, to a premises with Door No.3-153 & 3-154, Bazar Street, Renigunta, pursuant to the Form A-4 licence, dated 04.08.2017, issued by the 4th respondent. However, the 5th respondent-Prohibition & Excise Inspector, Tirupathi, submitted a report to the Prohibition & Excise Superintendent, Chittoor-4th respondent, *inter alia*,

stating that the petitioner-licensee is instructed to submit a new proposal for new premises in accordance with Rule 25 of A.P. Excise (Grant of Licence of selling by shop and conditions of Licence) Rules, 2012, in view of the directions in the judgment of the Supreme Court in Special Leave Petition (civil) No.10243 of 2017, dated 11.07.2017, and Government Orders in G.O.Nos.28 & 22, dated 04.07.2017 and 24.03.2017, respectively. Aggrieved of the said report of the 5th respondent, the petitioner filed this writ petition seeking the afore-stated relief.

At the hearing, learned senior counsel appearing for the petitioner would submit that the 2nd respondent is the competent authority to take a decision on the request of the petitioner for shifting the A4 shop of the petitioner from the present premises to the proposed premises and that if a direction is given to the petitioner to submit a fresh representation on the contents of the report of the 5th respondent and if a further direction is given to the 2nd respondent to consider and dispose of the request of the petitioner after considering such representation of the petitioner, which the petitioner is willing to submit, the ends of justice would be met.

Learned Government Pleader would submit that the competent authority is the Commissioner-2nd respondent and that the 2nd respondent has not yet taken any decision and that only an Inspector has submitted a report for consideration and hence, the writ petition is premature.

Recording the afore-said submissions, the Writ Petition is disposed of reserving liberty to the petitioner to submit, within two (02) weeks from the date of receipt of a copy of this order, a fresh representation to the authority

concerned, adverting to the observations in the report, dated 03.10.2017, of the 5th respondent. On the petitioner submitting such representation within the time stipulated supra, the 2nd respondent shall consider and dispose of the request of the petitioner for shifting of A4 premises, within four (4) weeks thereafter, however after considering the representation of the petitioner in strict accordance with the procedure established by law. The 2nd respondent shall communicate the decision taken thereon to the petitioner within a week thereafter.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

04.01.2018

Note: Issue CC in two (2) days.

[B/o]

Vjl

M. SEETHARAMA MURTI, J

