

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.41897 of 2018

ORDER:

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

“...to issue an appropriate writ, order or direction particularly one in the nature of writ of Mandamus declaring the proceedings bearing Rc.No.177/2017/A3, dated 17.11.2018 issued by the 3rd respondent as illegal, arbitrary, violation of Articles 14, 19 and 21 of the Constitution of India, in violation of principles of natural justice and also contrary to the provisions engrafted to A.P. Excise Act and the Rules framed thereunder and consequently set-aside the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. I have heard the submissions of learned counsel for the petitioner and of the learned Government Pleader for Prohibition and Excise appearing for the respondents. I have perused the material record.

3. Learned counsel for the petitioner submits as follows:

The petitioner is selected to sell Indian Made Foreign Liquor and Foreign Liquor at the licensed premises from 01.07.2017 to 30.06.2019 under the name and style 'M/s. Ushodaya Wines' and he was accordingly granted Form-A4 licence, on 06.07.2017. He has been running his business without any violation of conditions of licence. While so, the 3rd

respondent issued a show cause notice, dated 04.10.2018, as to why action shall not be initiated against A4 shop of the petitioner for violation of licence conditions and the Rules. The petitioner submitted an explanation, on 12.10.2018. However, without considering the said explanation, pending investigation, the impugned order was passed suspending A4 license of the petitioner. Hence, the present writ petition is filed.'

Learned counsel would further submit that on the confessional statement of a person made before the police, there cannot be a suspension of A4 license granted under the provisions of A.P. Excise (Grant of license of selling by shop and conditions of license) Rules, 2012, in view of the law laid down in the orders, dated 26.02.2018, in W.A.No.280 of 2018 and the orders, dated 13.11.2017, in W.P.No.36382 of 2017. He, therefore, prays for setting aside the impugned order.

4. Learned Government Pleader for Prohibition and Excise (AP) appearing for the respondents submits that the order impugned is justifiable in the facts and circumstances of the case and, that in the event this Court is inclined to set aside the order impugned, in view of the settled legal position, an opportunity may be given to the respondents to initiate action afresh in accordance with the procedure established by law.

5. Having regard to the facts and undisputed legal position, the impugned order is set aside, however, reserving liberty to

the respondents to initiate fresh action, if necessary, in strict accordance with the procedure established by law.

6. The Writ Petition is disposed of accordingly.

There shall be no order as to costs.

As a sequel, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.

M.SEETHARAMA MURTI, J

20.11.2018

v v

