

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.42041 of 2018

ORDER:

1) Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise, appearing for respondents.

2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the order of respondent No.3, passed in Rc.No.302/2018/A2, dated 14.11.2018, as arbitrary and illegal.

3) The facts in issue are as under:

The petitioner was running a shop in the name and style of M/s.Suresh Restaurant and Bar, by obtaining licence. While things stood thus, respondent No.3, on coming to a conclusion that the petitioner has willfully violated the provisions of A.P.Excise Act and licence conditions of A4 shop, issued a show cause notice to the petitioner, asking him to explain as to why the licence granted in favour of the petitioner should not be suspended. To the said show cause notice, the petitioner, while accepting the mistake committed by the nowkarnama, pleaded that he has not violated any of the conditions of the licence and requested to drop further proceedings in the matter. Not being satisfied with the explanation given by the petitioner, respondent No.3 passed the impugned order dated 14.11.2018

suspending the licence with immediate effect in public interest, pending enquiry into the case. Challenging the said impugned order, the present writ petition came to be filed.

4) Learned counsel for the petitioner would submit that once a show cause notice has been issued on the ground that the petitioner has violated the rules and when an explanation is submitted to the show cause notice, the question of still holding an enquiry would not arise.

5) On the other hand, learned Government Pleader for Excise would submit that as the explanation given by the petitioner to the show cause notice is not satisfactory, the licence of the petitioner was suspended.

6) It is to be noted here that pursuant to the show cause notice issued, the petitioner submitted his explanation. After submitting his explanation to the show cause notice, the impugned order of suspension came to be passed. Once an order of suspension is passed, after considering the explanation, the question of conducting further enquiry would not arise. The authorities ought to have passed a final order, in accordance with law. Further suspension of licence cannot be for an indefinite period. As a measure of punishment, suspension can only be for a limited period.

7) Having regard to the above, the order under challenge is set aside and the matter is remanded back to the authorities concerned directing them to pass final orders, in accordance

with law by taking into consideration the explanation submitted by the petitioner.

8) Accordingly, the writ petition is disposed of.

9) There shall be no order as to costs. As a sequel thereto, miscellaneous petitions pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt: 30.11.2018

vhb

