HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.43112 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.535/2018/A1, dated 20.11.2018, as arbitrary and illegal.

3) The facts in issue are as under:

The petitioner established A4 shop in the name and style of M/s.Rohit Beer and Wines and was granted licence for selling all kinds of Indian made foreign liquor and foreign liquor in the premises at D.No.12-112, Chinnayyapeta village, Regidi Amudalavalasa mandal, Srikakulam District, vide licence No.119/2017-2019. 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, issued proceedings dated 19.10.2018 suspending the licence granted in favour of the petitioner, until further orders, pending inquiry. Challenging the proceedings dated 19.10.2018, the petitioner approached this Court by filing W.P.No.39407 of 2018. The said Writ Petition was disposed of setting aside the proceedings dated 19.10.2018, giving liberty to the authorities to issue show cause notice and then proceed in accordance with law. Consequently, the authorities revoked the order of suspension and issued a show cause notice dated 08.11.2018, directing the petitioner to explain as to why the licence granted in favour of the petitioner should not be suspended for the alleged violations. Pursuant thereto, the petitioner submitted his explanation on 15.11.2018, stating that the confessional statement cannot be made the basis for suspension of licence and the allegations made are misconceived and unbelievable. Without considering the said explanation, respondent No.3 passed the impugned order dated 20.11.2018 suspending the licence until further orders. Hence, 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 initially suspension order was passed for unlimited period, pending inquiry on 19.10.2018.

Thereafter, the said suspension order was revoked in view of the set aside orders passed by this Court on 02.11.2018 and the show cause notice came to be issued to the petitioner seeking explanation on 08.11.2018. Accordingly, petitioner submitted his explanation on 15.11.2018 and the impugned order came to be passed on 20.11.2018, pending inquiry. It is to be noted that at this length of time, the question of conducting further enquiry would not arise. The authorities ought to have passed a final order, in accordance with law, more so when the petitioner has already submitted his explanation. 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 writ petition is allowed, setting aside the order under challenge 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) 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: 03.12.2018
vhb