HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.43549 OF 2018

ORDER:

The present writ petition came to be filed questioning the order dated 28.11.2018, passed by the 4th respondent in R.C.No.564/2018/A4, suspending the license of the petitioner's A-4 shop, as illegal and arbitrary.

The case of the petitioner appears to be that the 4th respondent basing on the report of the 5th respondent, has issued the impugned order alleging that there were certain quantities of loose liquor found and the petitioner is mixing cheap liquor in higher price liquor and violated the conditions of the licence and rules made thereunder.

Learned counsel for the petitioner submits that though the petitioner submitted his explanation to the show cause notice dated 17.11.2018 and without considering the contents of the explanation submitted by the petitioner, the impugned order came to be passed on 28.11.2018, suspending the licence of the A-4 shop of the petitioner and prays to allow the writ petition.

Learned Government Pleader for Prohibition and Excise, would submit that having regard to the nature of the offence said to have been committed by the petitioner, the respondent-authorities are justified in suspending the licence of the A-4 shop of the petitioner.

The Full Bench judgment of this Court in **Tappers Cooperative Society, Maddur v. Superintendent of Excise, Mahabubnagar**[1], categorically held that the licensing authority is bound to afford an opportunity as the power of suspension pending enquiry should not be exercised as an invariable rule or mode of making an enquiry. The licensing authority is bound to exercise the discretion reasonably,

[1] 1984(2) APLJ, page 1

bonafide and without negligence considering the circumstances of the case when such interim suspension is necessary.

As observed by me earlier, the instant case refers to mixing of cheap liquor in higher price liquor. It is not the case of the respondents that what was sold was adulterated liquor and that no material was there before the authorities as to the contents of the said liquor at the time of passing an impugned order. Further, though the petitioner submitted his explanation to the show cause notice but without considering the same, the impugned order came to be passed suspending the licence of the A-4 shop of the petitioner.

Having regard to the circumstances referred to above and taking into consideration the provisions of the A.P. Excise Act and the judgment of the Full Bench, this Court is of the view that the authorities ought to have taken into consideration the explanation submitted by the petitioner before passing the impugned order. Hence, the order under challenge is set-aside and the matter is remanded back to the Prohibition and Excise Superintendent to take into consideration the explanation submitted by the petitioner to the show cause notice dated 17.11.2018 and then pass orders at the earliest.

With the above direction, the Writ Petition is disposed of. Miscellaneous petitions, pending if any, shall stand closed. No order as to costs.

C. PRAVEEN KUMAR,J

Date:04.12.2018.
Gk

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.43549 OF 2018

Date:04.12.2018

Gk