HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.44057 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.271/2018/A3, dated 19.11.2018, 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.Sravan Wines, after obtaining licence. While things stood thus, respondent No.3, on coming to a conclusion that the petitioner has contravened the conditions of licence by selling the brand mixing liquor, issued a show cause notice dated 03.11.2018, asking him to explain within seven days, as to why the licence granted in favour of the petitioner should not be suspended. To the said show cause notice, the petitioner pleaded that he has not violated any of the conditions of the licence and requested him 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 19.11.2018, suspending the licence with immediate effect in public interest, pending investigation of 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 an explanation is submitted to the show cause notice, the question of holding an enquiry, while suspending the licence, would not arise.

5) On the other hand, learned Government Pleader for Excise would submit that the explanation given by the petitioner to the show cause notice is not to the satisfaction of the authorities and hence 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 given to the notice, the question of conducting further enquiry would not arise. The authorities ought to have passed a final order, in accordance with law. The said aspect is not seriously opposed by the learned Government Pleader for Excise

7) Having regard to the above, the order under challenge is set aside and the matter is remanded back to respondent No.3 directing him to pass final orders, in accordance with law by

taking into consideration the explanation submitted by the petitioner.

8) Accordingly, the writ petition is allowed.

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: 11.12.2018
vhb