HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

<u>WRIT PETITION No.44252 of 2018</u>

<u>ORDER</u>:

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.4, passed in Rc.No.B1/123/2017, dated 03.12.2018, as arbitrary and illegal.

3) The facts in issue are as under:

A notification came to be issued by respondent No.4 calling for applications for grant of licence to sell Indian made foreign liquor and foreign liquor wherein the petitioner participated in respect of the shop notified at Gazette Sl.No.KU/101. In the withdrawal of lots, the petitioner became successful and was granted licence. Since the date of allotment, the petitioner was running his shop in the name and style of M/s.Renuka Wines – II at Kosigi village and mandal, Kurnool district, without contravening any of the conditions of licence. While things stood thus, respondent No.4, on coming to a conclusion that the petitioner has willfully violated the provisions of A.P.Excise Act, issued a show cause notice. On receipt of the said show cause notice, the petitioner submitted his explanation. Not being satisfied with the explanation submitted by the petitioner, respondent No.4 passed the impugned proceedings dated 03.12.2018, suspending the licence granted in favour of the petitioner, pending inquiry. Challenging the proceedings dated 03.12.2018, 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 still holding an enquiry would not arise. He further contends that the explanation given by the petitioner stating that the CC footage recorded for the past 30 days would show that the accused never visited the shop of the petitioner, was not considered before passing the impugned order.

5) On the other hand, learned Government Pleader for Excise would submit that the explanation given by the petitioner, to the show cause notice was 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 herein submitted his explanation wherein he stated that the CCTV footage would reveal that the accused did not purchase liquor from the shop of the petitioner. After submitting his explanation to the show cause notice, the impugned order of suspension came to be passed, pending enquiry. Once an order of suspension is passed, after

considering the explanation, question of conducting further enquiry would not arise. The authorities ought to have passed a final order, in accordance with law. Further, suspension of a 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 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: 10.12.2018
vhb