

THE HONOURABLE SRI JUSTICE C. PRAVEEN KUMAR

W.P.No.45336 OF 2018

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise.

2. The present writ petition came to be filed seeking issuance of writ of *Mandamus* declaring the order dated 11.12.2018 passed by the 4th respondent in Rc.No.199/2018/B as illegal and arbitrary.

3. It is submitted by the learned counsel for petitioner that the petitioner is running a shop in the name and style of M/s.SNS Wines, Anantapuramu and ever since the grant of licence, he is doing business without contravening any of the conditions of licence. While matter stood thus, the 4th respondent, basing on the report of the 5th respondent, had issued a show-cause notice dated 20.11.2018 demanding the petitioner to submit his explanation as to why his licence should not be suspended for violation of provisions of Section 31(1)(b) of A.P.Excise Act, 1968 and the licence conditions of A4 shop. The petitioner submitted his explanation to the said show-cause notice denying the allegations levelled against him. Without considering the explanation in proper perspective, the impugned order came to be passed suspending the licence of petitioner. Challenging the same, the present writ petition is filed.

4. Learned counsel for the petitioner would submit that except the report of the 5th respondent there is no material to show that the petitioner has sold the liquor bottles to the accused. He also submits that the 4th respondent has issued the show-cause notice dated 20.11.2018 to the petitioner, to which the petitioner has submitted his explanation. He further submits that the report of the fifth respondent does not anywhere indicate that the accused has purchased the liquor bottles from the shop of the petitioner.

5. The learned Government Pleader for Excise would submit that the explanation submitted 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. A perusal of the show-cause notice makes it clear that a report is called for from the 5th respondent, which reads as under:-

“Accordingly, the SHO Ananthapuramu has submitted a detailed report stating that he along with his staff surprised at M/s. SNS Wines, G.S.No.08, Ananthapuramu found Nowkarnama holder D.Harinath present in the shop and conducting liquor sales he verified the heal numbers in the above case with reference to H.P.F.S system and found that the above bottles Heals are not scanned on 30.10.2018 (date of offence) and also on observing the CC footage of the above case date i.e. 30.10.2018 the Nowkarnama of above A4 shop, sold the liquor bottles to the accused in this case is not found in CC footage of said A4 shop. The SHO Ananthapuramu stating that the accused in above case is namely Anke Ramesh was not directly purchased

the said above liquor bottles from M/s.SNS Wines, Ananthapuramu. He purchased the said bottles through other mediators in the permissible quantity and gathered from M/s.SNS Wines, G.S.No.08, Ananthapuramu and he is going to transport the same liquor bottle to Smt.Kukkala Ramanamma W/o.K.Adenna, R/o.Chiyyedu for sale purpose.”

7. From a reading of the above report, it is clear that there is no material to show that nowkar of A4 shop sold the liquor bottles to the accused and the same has not been found in CC footage. Further, the Station House Officer in his report stated that the accused namely Anke Ramesh has not directly purchased the liquor from the petitioner's shop and that he purchased the said bottles through other mediators in the permissible quantity and gathered the same from M/s.SNS Wines. Therefore, the report submitted by the Station House Officer does not show that the petitioner has sold the liquor bottles to the accused. Hence, the impugned order is liable to be set aside.

8. Accordingly, the writ petition is allowed and the impugned order is set aside, leaving it open to the respondents to take steps in accordance with law, if warranted. No order as to costs.

Miscellaneous petitions, if any pending, in this appeal shall stand closed.

C. PRAVEEN KUMAR, J

Date:13-12-2018

Prv



