

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.45506 of 2018

ORDER:

- 1) 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 suspension order passed in proceedings R.C.No.286/2017/A2, dated 07.12.2018, of the Prohibition and Excise Superintendent, Vizianagaram, as arbitrary and illegal.
- 3) The only ground urged by the learned counsel for the petitioner is that the report of the Government Chemical Examiner, which was received on 07.12.2018, was not supplied to the petitioner and without giving an opportunity to explain as to the contents therein, the authorities, by taking into consideration the said report, passed the impugned order.
- 4) Learned Government Pleader would submit that since the said report clearly indicates dilution of Indian Liquor, it would not make any difference even if the petitioner is furnished with a copy of the same.
- 5) Pursuant to the raid conducted on 17.11.2018, the authorities found one male person by name Chandaka Thata Babu conducting business in the said shop and on search the officials detected loose sale and diluted liquor bottles of different

brands. Pursuant thereto, a case in Crime No.179 of 2018 came to be registered for the offence punishable under Section 36(1)(b) & (c) of A.P.Excise Act and then the accused was arrested. After registering the crime, a show cause notice dated 24.11.2018, was received by the petitioner asking him to give explanation within a period of one week from the date of receipt of the said show cause notices, to the contents therein. Immediately thereafter, i.e., on 04.12.2018, the petitioner is said to have submitted his explanation to the show cause notice on 07.12.2018. The licence of the petitioner was suspended for a period of fifteen days, on the ground that the petitioner was selling diluted liquor.

6) Learned counsel for the petitioner mainly submits that the suspension order refers to the report of the Chemical Examiner, but no opportunity was given to the petitioner to explain the contents of the report.

7) Learned Government Pleader states that since the report was received on 07.12.2018 and as the report clearly indicates that the sample was adulterated/diluted with Indian liquor, it would not make any difference even if a copy of the report is furnished to the petitioner.

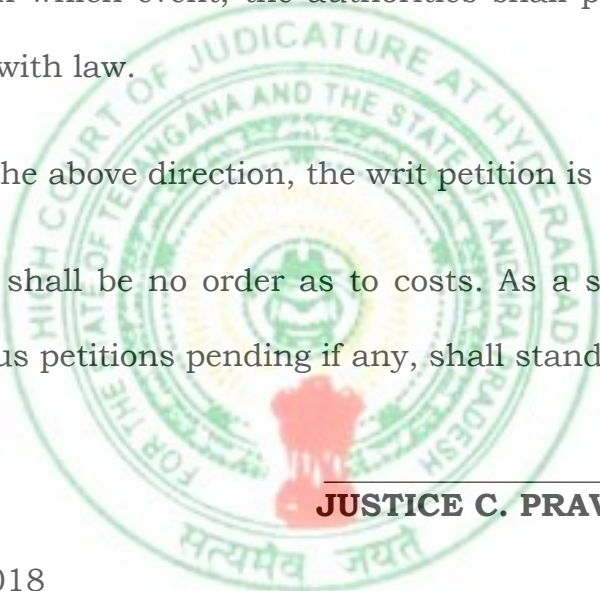
8) But if the authorities are relying on any document and make it a basis for suspending the licence, a copy of it shall be furnished to the petitioner. In the absence of the same, it would amount to violation of principles of natural justice, as no

opportunity was given to the petitioner to explain to the contents of the said report.

9) Having regard to the above, the order under challenge is set aside. Respondent No.4 shall furnish a copy of the report of Government Chemical Examiner of Prohibition and Excise to the petitioner within a period of two days and thereafter the petitioner shall submit his explanation to the contents of the Chemical Examiner report, within a period of one week thereafter, in which event, the authorities shall pass orders, in accordance with law.

10) With the above direction, the writ petition is disposed of.

11) 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: 17.12.2018

Note:

Issue CC tomorrow.
B/o.
vhh