

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

W.P.No.46664 of 2018

Order:

1). Heard the learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise. With their consent, the case is disposed of at the admission stage.

2). The writ petition came to be filed, assailing order dated 18.12.2018 passed by the Prohibition and Excise Superintendent, suspending A4 shop license of the petitioner bearing G.S.No.70/2017-19 located at 14th ward of Tuni Municipality.

3). The learned counsel for the petitioner has urged two grounds; (1) that the entire case is based on the confession of the nowkarnama, which cannot be made the basis to cancel the license, in view of order in W.A.No.280 of 2018 and (2) that though a show-cause notice was issued to the petitioner, inviting an explanation to be submitted to the show-cause notice, suspending the license in the meanwhile, that too for an indefinite period is illegal. According to him, as a measure of punishment the license cannot be suspended for an indefinite period. However Government Pleader opposed the same.

4. As seen from the record, the petitioner was an A4 licensee bearing G.S.No.70/2017-19 and was running the shop at Tuni. While things stood thus, a case in Crime No.399 of 2018 came to be registered on 06.12.2018 by Prohibition and Excise Superintendent under Section 36 (1) (b) & (c) of A.P. Excise Act,

1968 r/w. Rule 37 of Grant of License of selling by shop and conditions of Licenses Rules, 2012. As per the allegation in the first information report, on 06.12.2018 at about 7 a.m., the Prohibition and Excise Sub-Inspector along with his staff inspected the shop of the petitioner and found diluted liquor in possession of nowkarnamadar, who confessed that he opened the shop before the scheduled hours without the knowledge of his owner, mixed water and diluted the nip bottles for profit. From the above, it is clear that the entire case is based on confession of the nowkarnamadar.

5. In W.A.No.280 of 2018, the Court held that the confession of the co-accused alone, would not be sufficient to suspend the license. But in the present case, though the case was registered based on confession, material was recovered from the shop where the diluted liquor was found. But, it is to be noted that the impugned order, suspending the license for an indefinite period, came to be passed. The question of suspending the license for an indefinite period as a measure of punishment, would not arise.

6. The said view is fortified by the decision of the Full Bench of the High Court in *Tappers Cooperative Society, Maddur Vs. Superintendent of Excise, Mahabubnagar*¹.

7. In the facts and circumstances of the case and judgment of this Court, the order under challenge is set aside, leaving it open to the authorities to take steps, in accordance with law.

¹ (1984) 2 APLJ Page 1

8. Accordingly, the Writ Petition is accordingly.

9. There shall be no order as to costs. As a sequel to it, miscellaneous petitions pending if any, shall stand closed.

JUSTICE C.PRAVEEN KUMAR

24.12.2018

Note: Issue C.C. in a week.

B/o.

msb

