

WRIT PETITION No.41499 of 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“to issue a writ of mandamus or any other appropriate writ or direction declaring the action of the 4th respondent in issuing the proceedings in RC.No.172/ 2017/ A1 dated 30.11.2017 as illegal, arbitrary and in violation of principles of natural justice and pass such.....”

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise for the respondents and perused the prayer in the writ petition with supporting affidavit and other material on record.

3. As held by this Court in W.P.No.1359 of 2018 and batch, referring to the Full Bench expression of this Court in Tappers Cooperative Society, Maddur v. Superintendent of Excise, Mahaboobnagar¹, Sunil v. Assistant Commissioner of Prohibition and Excise/Excise Superintendent, Twin Cities of Hyderabad, Narayanguda and another² and Venkateswara Wines v. Superintendent of Prohibition and Excise³, it is premature to maintain the writ petition, impugning the show cause notice instead of giving reply; even under Section 31 of the A.P.Excise Act (for short 'the Act'), for passing any final order requires giving of show cause notice and from any reply, opportunity of hearing, leave about pending show cause notice also, the authorities

¹ 1984(2) APLJ 1

² 1997(4) ALD 625

³ 2004(4) ALD 681

got as an interim measure to suspend the license in the public interest if required, for which, neither prior notice contemplated nor giving a bar including from any reply apart from no principles of natural justice to be followed for such an interim measure, as per the expression in Tappers Cooperative Society, Maddur (supra). Hence, there is nothing to entertain the writ petition, much less, to continue the interim order dated 13.12.2017, as it is premature to maintain writ petition.

4. Having regard to the above, this Writ Petition is dismissed. The respondents shall pass final order pursuant to the show cause notice issued and from submission of any explanation and on hearing by giving reasons under Section 31 of the Act and the Rules made thereunder.

5. Consequently, miscellaneous petitions, if any shall stand closed. No order as to costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 15.02.2018
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