

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 20067 of 2019

ORDER:

Petitioners assert that they are all toddy tappers by profession and are members of respondent No.4-Toddy Tappers-Cooperative Society, Gadwal, Jogulamba Gadwal District; that respondent No.4 was issued licenses for running 8 constituent shops; that when respondent No.4 indulged in selling adulterated toddy, complaints were received and inspection was carried out on Shop No.6 and samples were drawn under cover of panchanama and sent to the Government Chemical Examiner for Prohibition and Excise, Regional Prohibition & Excise Laboratory, Hyderabad for analysis, who in turn opined that the sample was adulterated with Alprazolam, which is NDPS substance and the consumption of the same might lead to death; that a case was registered against respondent No.4 and license was suspended for Shop No.6 in the year 1999; that thereafter, licenses of other three shops were suspended in 2004; that on account of the illegal activities undertaken by respondent No.4, they are deprived of their livelihood; that they submitted an application on 03.08.2019 before respondent No.3-District Prohibition and Excise Officer, Gadwal for grant of individual TFT licenses and as no decision was taken thereon, they filed W.P.No.17990 of 2019 on 19.08.2019 and on the very next day, respondent No.3 communicated proceedings dated 13.08.2019 to the petitioners informing that respondent No.4 had approached the Government by making representation; that the petitioners were

informed that the authorities are unable to invoke Rule 32 of the Telangana Excise (Grant of License to Sell Toddy, Condition of License and Tapping Excise Trees) Rules, 2007; that on account of the same, the writ petition was dismissed as withdrawn giving liberty to the petitioners to question the said proceedings; that they came to aware of the Memo dated 09.09.2019 issued by respondent No.1 granting stay of all proceedings of respondent No.3, dated 05.08.2009 until further orders; that the said Memo is illegal, arbitrary and without jurisdiction; that respondent No.1 failed to take into consideration the letter dated 21.08.2019 issued by respondent No.2-Commissioner of Prohibition & Excise, State of Telangana, wherein he had specifically referred to various cases pending against the Society; that it is settled law that even notice is required to be issued for suspending the license of the Society which involved in contravention of the Rules; that no appeal was filed by the Society against the suspension of the license of the Society; that respondent No.4 had approached this Court by way of filing W.P.Nos.22091, 22492 and 22499 of 2019, which came to be dismissed as withdrawn; and that in the facts of the present case, respondent No.1 ought not to have granted stay enabling the Society to run the toddy shop notwithstanding the fact that the licenses have been suspended. In those circumstances, the petitioners pray for a mandamus.

Learned Government Pleader would submit that it is open for the petitioners to approach the Government seeking to vacate the orders.

In view of the above, at the outset, it may be noted that this Court is not a supervisory authority over every administrative action of the Excise Department, more particularly with respect to issuance/non-issuance or suspension/cancellation of the toddy shop license. The petitioner challenges the interim stay granted by respondent No.1 on 09.09.2019. Except stating that respondent No.1 ought not to have granted stay, there is no challenge to the jurisdiction of respondent No.1 to entertain the representation/application made by respondent No.4. So far as the reasons, which the petitioners urge before this Court, are concerned, it is always open for them to approach respondent No.1 and put forward their case as to why stay ought not to have been granted. Inasmuch as this Court is exercising jurisdiction under Article 226 of the Constitution of India, but not the supervisory jurisdiction over the administrative officer's decision, the writ petition does not deserve any consideration.

In those circumstances, leaving it open to the petitioners to approach respondent No.1 with their grievance, the writ petition is closed.

Miscellaneous petitions, if any, pending in this writ petition shall also stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:17.09.2019

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