

HONOURABLE SRI JUSTICE T. AMARNATH GOUD

W.P. No.22397 OF 2019

ORDER:

This writ petition is disposed of at the admission stage.

Heard the learned counsel for the petitioner, learned Government Pleader for Prohibition & Excise and the learned Government Pleader for Tribal Welfare.

The present case is filed by the petitioner, who claims to be belonging to koya community scheduled tribe, aggrieved by the action of the District Prohibition & Excise Officer-7th respondent in issuing notification for grant of licenses from 01.11.2019 to 03.10.2021 to set up retail liquor shops in schedule tribe area of Bhadradi Kothagudem District in violation of Panchayats Extension to Scheduled Areas Rules, 2011 (for short 'PESA Rules') framed vide G.O.Ms.No.66, dated 24.03.2011 and Rule 24 of the Excise Policy, 2012.

Though the learned counsel for the petitioner made an attempt to travel beyond the scope of the prayer sought, it is made clear that he is not entitled to ask for such relief, which is in contravention to the disposal of IMFL licenses by the Excise authorities under the notification issued.

However, the Gram Panchayat and Mandal Parishads in the tribal areas are protected by the Panchayat Raj and Rural Development Departments under 8(b) and 8(c) of PESA Rules framed vide G.O.Ms.No.66 dated 24.03.2011 from establishing the retail outlets of liquor shops.

8(b) & 8 (c) of PESA Rules reads as under:

“8(b):

The Gram Sabha shall be consulted before the grant of any license to open liquor shop in the village. Gram Sabha will convey its opinion in the form of resolution within four weeks. The license shall be granted to local scheduled tribe only.”

8(c):

The Department concerned shall issue a speaking order for granting or not granting any license to open liquor shop/bar in the village under intimation to the Gram Sabha concerned. The Gram Sabha resolution shall be binding and final.”

During the course of arguments, learned Government Pleader for Prohibition and Excise had categorically stated that the Excise authorities while issuing licenses for setting up of liquor shops in the schedule area will follow 8(b) and 8(c) of PESA Rules.

In view of the above, this writ petition is disposed of directing the respondents to follow 8(b) and 8(c) of PESA Rules, while issuing licenses to the liquor shops in the schedule tribe areas. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

T. AMARNATH GOUD, J

15.10.2019
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