

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Appeal No.798 of 2019

Date:30.10.2019

Between:

Vankdoth Kommalu and others

..Appellants

And

The State of Telangana,  
Rep. by its Principal Secretary,  
Revenue (Excise) Department,  
Secretariat, Hyderabad  
and others

..Respondents

Counsel for the Appellants : Sri A. Prabhakar Rao

Counsel for the respondents : Sri Arun Kumar,  
G.P. for Prohibition and Excise

The Court made the following:

**JUDGMENT:** (Per the Hon'ble Sri Justice A.Abhishek Reddy)

Aggrieved by the order of the learned Single Judge passed in I.A.No.1 of 2019 in W.P.No.22460 of 2019, dated 17.10.2019, whereby the learned Single Judge refused to grant stay in favour of the appellants herein, the present Writ Appeal is filed.

2) The prayer sought in I.A.No.1 of 2019 in W.P.No.22640 of 2019 is as follows:

*Petition under Section 151 of CPC, praying that in the circumstances stated in the affidavit filed in writ petition, the High Court may be pleased to stay all further proceedings including drawl of Lots on 18.10.2019 for allotment of three A4 Wine Shops in three non-tribal villages i.e., Ponugodu, Apparajupally and Bhupatipet villages, Gudur Mandal, Mahabubabad District, pursuant to the Notification in Proceedings No.52/MBD/2019, dated 09.10.2019 by the 5<sup>th</sup> respondent, pending disposal of W.P.No.22460 of 2019, on the file of the High Court.*

3) Aggrieved by the action of the official respondents in not including three A4 Wine Shops in Gudur Village, in the notification in proceedings No.52/MBD/2019, dated 09.10.2019, the petitioners have filed the writ petition. The specific case of the petitioners is that Gudur village is located in the tribal area and the said village is a Mandal headquarter, in Mahabubabad District, having a population of more than 10,000. Even though in the previous year, licences were granted to three shops in this village, but for the Excise Year 2019-2021, the said village was not notified; the three shops which were earlier allocated to Gudur village have been shifted to non-tribal villages i.e., Ponugodu, Apparajupally and Bhupatipet. The petitioners

contend that as a result of the shifting of the wine shops, the villagers of Gudur, and the agency people are deprived of having their own wine shops, are deprived of their livelihood, and without there being any legal reason, the shops were shifted. Hence, the action of shifting the wine shops is arbitrary. It is an unreasonable act.

4) The learned Single Judge dismissed I.A.No.1 of 2019 mainly on the ground that establishment of a wine shop, in a particular location, is the prerogative and sole discretion of the State Government. Thus, no interim order was granted at the admission stage.

5) Heard Sri A.Prabhakar Rao, the learned Counsel appearing for the appellants, and Sri Arun Kumar, the learned Government Pleader for Prohibition and Excise for the respondents.

6) Learned Counsel appearing for the appellants has strenuously contended that due to shifting of the wine shops, the local people, who belong to agency areas, are put to inconvenience, and deprived of their livelihood. He further contends that by virtue of the shifting of wine shops, the agency people are deprived from participating in the tender process.

7) We have gone through the order passed by the learned Single Judge and do not find any illegality or infirmity in the same for the following reasons:

a) No person is vested with any fundamental right to trade in liquor .

b) Mere shifting of the wine shop from one locality to another, will not, in any way, affect the fundamental rights of the persons, as nothing prevents them from participating in the tenders being called for. No provision of law prohibits a person, belonging to the agency area, from participating in the tender for wine shop located in the non-tribal area.

c) The decision to have a wine shop at a particular place, or to shift the existing one is in the realm of a policy decision. Hence, this Court cannot enter into the same.

d) The Hon'ble Supreme Court in State of Andhra Pradesh and ors. Vs. Mc.Dowell and Co. Ors.<sup>1</sup> has held, at paragraph No.39, as under:

*The contention that a citizen of this country has a fundamental right to trade in intoxicating liquors refuses to die in spite of the recent Constitution Bench decision in Khoday Distilleries [(1995) 1 SCC 574]. It is raised before us again. In Khoday Distilleries [(1995) 1 SCC 574], this Court reviewed the entire case-law on the subject and concluded that a citizen has no fundamental right to trade or business in intoxicating liquors and that trade or business in such liquor can be completely prohibited.*

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<sup>1</sup> 1996 (3) SCC 709

e) The petitioners have not made out any case for interfering with the order passed by the learned Single Judge.

8) In the result, the writ appeal is devoid of merit; the same is hereby dismissed.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

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RAGHVENDRA SINGH CHAUHAN, HCJ

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A.ABHISHEK REDDY, J

30<sup>th</sup> October, 2019  
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