

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION Nos.25460 of 2019 & 27215 of 2019

COMMON ORDER:

As the petitioners and respondents are same in both the writ petitions and since both the writ petitions arise out of a common cause of action and a subsequent development which has taken place, with the consent of learned counsel for both sides, both the writ petitions are disposed of by way of a common order.

2. Heard Sri C.Hari Preeth, learned counsel appearing for the petitioners and the learned Government Pleader for Prohibition & Excise appearing for respondents 1 to 5. Perused the material available on record.

3. W.P.No.25460 of 2019, under Article 226 of the Constitution of India, is filed by the petitioners seeking the following relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue any Writ, order or direction more especially one in the nature of Writ of Mandamus declaring the action of the Respondents 2 to 5 in not considering the objections of the Petitioners, Dt.11-11-2019 & 13-11-2019 made pursuant to the Application made by the 6th Respondent, Dt.02-11-2019 for Shifting of A-4 License Shop as illegal, arbitrary and contrary to Rules under T.S Excise (Grant of License of selling by Shop and Conditions of License) Rules 2012 and consequently direct the Respondents 2 to 5 not to grant any Shifting Permission to the 6th Respondent’s A-4 Licence Shop situated at H.No.3-7-910, Jagtial Road, Karimnagar Town and District pursuant to her Application, Dt.02-11-2019 by duly

considering the objections of the Petitioners, Dt.11-11-2019 & 13-11-2019 and to pass such other order or orders as this Hon'ble Court may deem fit just and proper in the circumstances of the case."

4. W.P.No.27215 of 2019, under Article 226 of the Constitution of India, is filed by the petitioners, seeking the following relief:

"For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble High Court may be pleased to issue any Writ, order or direction more especially one in the nature of Writ of Mandamus declaring the Impugned Proceedings of the 2nd Respondent in Cr.No.2742/2019/CPE/TS/F4, Dt.22-11-2019 whereby granting Shifting Permission to the 6th Respondent's A-4 License Shop from H.No.3-7-910, Division No.50, Vavilalapally, Karimnagar to H.No.3-7-464 to 470, Division No.47, Vavilalapally, Jagtial Road, Karimnagar which is out side the Notified Area without considering the pending objections of the Petitioners, Dt.11-11-2019 & 13-11-2019 as illegal, arbitrary and contrary to Rules under T.S Excise (Grant of License of selling by Shop and Conditions of License) Rules 2012 and consequently by setting aside the Impugned Proceedings of the 2nd Respondent, Dt.22-11-2019, direct the Respondents 1 to 5 not to take any further steps pursuant to the Impugned Proceedings of the 2nd Respondent and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case."

5. The petitioners filed their objections before the respondent authorities, dated 11.11.2019 & 13.11.2019, seeking them not to pass any orders in favour of the unofficial 6th respondent in shifting her A-4 License Shop. On 19.11.2019, this Court passed an interim order directing the 2nd respondent, who is the competent authority, to consider the objections stated to have been made by the petitioners on 11.11.2019 & 13.11.2019

before considering the application of the private respondent No.6 for shifting of A-4 License shop. The said order has been communicated by the petitioners in the office of the 2nd respondent on 20.11.2019. Without considering the same, in the light of the recommendations made by respondents 3 & 4, the 2nd respondent has passed an order, dated 22.11.2019, by granting permission in favour of the 6th respondent for shifting the A-4 License Shop from the existing premises i.e., H.No.3-7-910, Division No.50, Vavilalapally, Karimnagar, to H.No.3-7-464 to 470, Division No.47, Vavilalapally, Jagtial Road, Karimnagar, which is outside the Notified Area.

6. The 2nd respondent has considered the recommendations of his subordinates i.e., respondents 3 & 4 while passing the impugned order, but has failed to consider the interim order passed by this Court, dated 19.11.2019, directing the 2nd respondent to consider the objections stated to have been made by the petitioners on 11.11.2019 & 13.11.2019 before considering the application of the private respondent No.6 for shifting of A-4 License shop and the said order has been communicated by the petitioners in the office of the 2nd respondent on 20.11.2019, which is much prior to passing of the impugned order. In view of the above, this Court feels that the impugned order passed by the 2nd respondent is unjust and the same is liable to be set aside.

7. Accordingly, the Writ Petitions are allowed by setting aside the impugned order, dated 22.11.2019, passed by the 2nd respondent. However, the 2nd respondent is at liberty to take steps, in accordance with law. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

T. AMARNATH GOUD, J

Date: 16th December, 2019

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