

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**THURSDAY, THE SEVENTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY**

PRESENT

THE HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 12089 OF 2020

Between:

Rachuri Sunil Kumar, s/o Sai Raj, aged about 30 years, occ- Kirana Business,
r/o Sathapur Village, Peddakothapally Mandal, Nagarkurnool District

...PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary, Revenue (Excise Department), Secretariat, Hyderabad
2. The Tahsildar, and Executive Magistrate Peddakothapally Mandal, Nagarkurnool District
3. The Station House Officer, Kollapur Proh. and Excise Station, Nagarkurnool District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 2 respondent in issuing the impugned Notice in M.C.No. A/Exkpr/2020 dt. 27-7-2020 directing the petitioner herein to pay a penalty of Rs. 1,00,000/- within 7 days as being arbitrary, illegal, bad in Law, and consequently set aside the same.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings in M.C.No. CA/Exkpr/2020 dt. 27-7-2020 issued by the 2nd respondent, pending disposal of the main Writ Petition.

Counsel for the Petitioner: M/S. PILLIX LAW FIRM

Counsel for the Respondent Nos. 1 & 3: GP FOR PROHIBITION & EXCISE

Counsel for the Respondent No. 2: GP FOR REVENUE

The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.12089 OF 2020

ORDER:

Heard learned counsel for the petitioner, learned Assistant Government Pleader for Prohibition and Excise appearing for respondent Nos.1 and 3 and learned Assistant Government Pleader for Revenue appearing for respondent No.2.

2. In this writ petition, petitioner challenges the notice dated 27.07.2020 directing him to show cause why security bond for an amount of Rs.1,00,000/- be forfeited.

3. Petitioner claims that he is running a kirana shop in his residence. On 24.06.2020, petitioner executed a bond for an amount of Rs.1,00,000/- assuring to maintain good conduct for a period of one year. The Tahsildar and Executive Magistrate, Peddakothapally, respondent No.2, was informed that petitioner violated the said bond of good conduct and involved in another crime under the provisions of the Telangana Prohibition Act, 1995 and Telangana Excise Act, 1968. Therefore, on 27.07.2020 vide PCOR.Nos.132 of 2020 and 133 of 2020, dated 03.07.2020, crimes were registered in Kollapur Excise Station. Therefore, the Executive Magistrate issued the impugned show cause notice.

4. From the reading of the impugned notice, it is seen that no prior opportunity was given to the petitioner to explain his stand before ordering forfeiture of the bond executed by him. That apart, the reason assigned for forfeiture is, alleged involvement of the petitioner in crimes. Mere involvement in crimes would not by itself constitute breach of bond furnished by the petitioner, as it

cannot be treated on par with conviction. Thus, on both counts i.e., on facts and in law, the impugned notice dated 27.07.2020 is unsustainable.

5. However, learned Assistant Government Pleader submits that petitioner is in the habit of involving in excise crimes repeatedly and in fact the provisions of the Telangana Excise Act, Act, 1968 were invoked against the petitioner several times and therefore no indulgence is called for.

6. No opinion can be expressed on the issue of frequent involvement by the petitioner in excise crimes and the issue is confined to procedural aspects required to be observed by the Executive Magistrate before calling upon the petitioner to show cause against proposed action. It is open to the respondent - Excise Authorities to take appropriate action as warranted by law against the petitioner on the allegation of frequent involvement in crimes.

7. The writ petition is accordingly allowed granting liberty to the Government to proceed against the petitioner in accordance with law, if so warranted. Miscellaneous petitions, if any pending, stand closed.

That Rule Nisi has been made absolute as above Witness the Hon'ble Sri Raghvendra Singh Chauhan, The Chief Justice on this Thursday, The Seventeenth day of December, Two Thousand and Twenty.

SD/-CH.VENKATESWARULU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Revenue (Excise Department), State of Telangana, Secretariat, Hyderabad
2. The Tahsildar, and Executive Magistrate Peddakothapally Mandal, Nagarkurnool District
3. The Station House Officer, Kollapur Proh. and Excise Station, Nagarkurnool District
4. One CC to M/S. PILLIX LAW FIRM [OPUC]
5. Two CCs to GP for Prohibition & Excise, High Court for the State of Telangana. [OUT]
6. Two CCs to the GP for Revenue, High Court for the State of Telangana. (OUT)
7. Two CD Copies.

HIGH COURT

DATED:17/12/2020

ORDER

WP.No.12089 of 2020



Allowing the WP

SSV
10 copies
Dt 02/01/2021