

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

MONDAY, THE EIGHTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 11586 OF 2023

Between:

Dharavath Chinna, S/o Mansingh, Aged about 40 Years, Caste ST, Occ Coolie,
R/o Mangapuram (V), Garidepally Mandal, Suryapet District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Prohibition and Excise Department, Secretariat, Hyderabad.
2. The Executive Magistrate and Tahsildar, Garidepally Mandal, Suryapet District.
3. The Station House Officer, Prohibition and Excise, Excise Station Huzurnagar, Suryapet 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 2nd respondent in issued the impugned notice in MC. No. A/40/2022, dated 31-03-2023 directing the petitioner herein to pay a penalty of Rs. 2,00,000/- (Two Laksh) within 7 days as being arbitrary illegal bad in law and consequently set aside the same

IA NO: 1 OF 2023

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 MC. No. A/40/2022, dated 31-03-2023 issued by the 2nd respondent, Pending disposal of the above writ petition

IA NO: 2 OF 2023

Between:

1. The State of Telangana, Rep. by its Principal Secretary, Prohibition and Excise Department, Secretariat, Hyderabad.
2. The Station House Officer, Prohibition and Excise, Excise Station Huzurnagar, Suryapet District.

....PETITIONERS/RESPONDENT Nos. 1&3 in W.P.

AND

1. Dharavath Chinna, S/o Mansingh, Aged about 40 Years, Caste ST, Occ Coolie, R/o Mangapuram (V), Garidepally Mandal, Suryapet District.

...RESPONDENT/WRIT PETITIONER

2. The Executive Magistrate and Tahsildar, Garidepally Mandal, Suryapet District.

.....RESPONDENT/RESPONDENT No.2 in W.P.

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 vacate the Interim Order dated: 25.04.2023 passed in W.P. No. 11586 of 2023 and dismiss the Writ Petition

Counsel for the Petitioner: SRI. K. VENKATARAMANAIAH

Counsel for the Respondents: GP FOR PROHIBITION EXCISE

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT PETITION No.11586 of 2023

ORDER:

This writ petition has been filed seeking the following relief:-

“.....to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd Respondent in issuing the impugned Notice in M.C.No.A/40/2022, dated 31.03.2023 directing the petitioner to pay the said penalty of Rs.2,00,000/- or show cause within seven (7) days as being arbitrary, illegal, bad in law and consequently, set aside the same...”

2. The grievance of the petitioner is that respondent No.2 has issued the impugned notice of forfeiture of bond for good behaviour dated 31.03.2023 without calling for any explanation from the petitioner or without conducting any enquiry.

3. Heard learned counsel for the parties and perused the record.

4. A reading of the impugned notice of forfeiture of bond for good behaviour dated 31.03.2023 discloses that the petitioner is required to pay penalty of Rs.2,00,000/- or show cause within seven days as to why she should not be adjudged for imprisonment until such bond period expires. However, it does

not specifically state that any enquiry has been conducted or any opportunity was given to the petitioner to explain her stand prior to issuance of the impugned notice.

5. Since this Court is of the opinion that the action of respondent No.2 in issuing the impugned notice amounts to violation of principles of natural justice, it is liable to be set aside.

6. Accordingly, the writ petition is allowed and the impugned notice dated 31.03.2023 is set aside. The respondents are directed to conduct a detailed enquiry strictly in terms of Chapter VIII of Cr.P.C. before adjudging that the petitioner is liable for imprisonment or paying the penalty for breach of bond, within a period of four weeks from the date of receipt of a copy of this order.

Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

SD/- P. CH. NAGABHUSHAMBA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Prohibition and Excise Department, Secretariat, T.S., Hyderabad.
2. The Executive Magistrate and Tahsildar, Garidepally Mandal, Suryapet District.
3. The Station House Officer, Prohibition and Excise, Excise Station Huzurnagar, Suryapet District.
4. Two CCs to GP FOR PROHIBITION EXCISE, High Court for the State of Telangana at Hyderabad [OUT]
5. One CC to SRI. K. VENKATARAMANAIH, Advocate [OPUC]
6. Two CD Copies

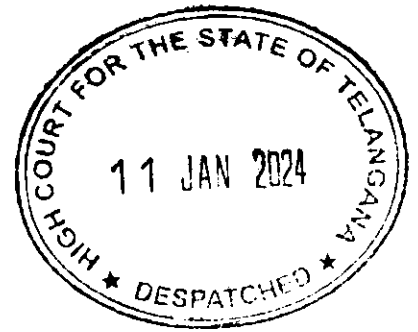
B M
GJ

HIGH COURT

DATED:18/12/2023

ORDER

WP.No.11586 of 2023



**ALLOWING THE WRITPETITION
WITHOUT COSTS**

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