

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

**FRIDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 3693 OF 2023

Between:

Busa Deva Raju @ Basu Deva Raju, S/o. Lachaiah, Age. 41 years,
Occ. Agriculture, R/o. H.No.2-89/1, Thumpally Village, Sirikonda Mandal,
Nizamabad District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Prohibition and Excise Department, Secretariat Buildings, Hyderabad.
2. The Tahsildar and Executive Magistrate, Sirikonda Mandal, Nizamabad District.
3. The Station House Officer, Prohibition and Excise Station, Bheemgal, Nizamabad 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 a Writ, Order or Direction more particularly one in the nature of Writ of MANDAMUS by declaring the action of the 2nd respondent issuing the impugned Notice in RC.No. C/693/2022, Dated 03.11.2022 in directing the petitioner to pay a penalty of Rs.2,00,000/- within 7 days as illegal, arbitrary, abuse of process of law, violation of principles of natural justice and contrary to law and set aside the impugned Notice in RC.No. C/693/2022, Dated 03.11.2022 issued by the 2nd respondent and consequently direct the respondents not to take any further action against the petitioner in the interest of justice.

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 suspend the impugned Notice in RC.No. C/693/2022, Dated 03.11.2022 issued by the 2nd respondent in the interest of Justice, pending disposal of the writ petition.

IA NO: 2 OF 2023

Between:

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

...PETITIONERS/RESPONDENTS

AND

1. Busa Deva Raju @ Basu Deva Raju, S/o. Lachaiah, Age. 41 years, Occ. Agriculture, R/o. H.No.2-89/1, Thumpally Village, Sirikonda Mandal, Nizamabad District.

...RESPONDENT/PETITIONER

2. The Tahsildar and Executive Magistrate, Sirikonda Mandal, Nizamabad District.

...RESPONDENT/RESPONDENT

(Respondent No.2 is not necessary party to this petition)

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 dt:09/02/2023 passed in W.P.No.3693 of 2023 and dismiss the writ petition.

Counsel for the Petitioner: SRI S. SURENDER REDDY

Counsel for the Respondents Nos.1 and 3: GP FOR PROHIBITION EXCISE

Counsel for the Respondents No2. GP FOR REVENUE

The Court made the following: ORDER

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

WRIT PETITION NO.3693 OF 2023

ORDER:

This writ petition is filed challenging the impugned notice, dated 03.11.2022 issued by respondent No.2-Tahsildar and Mandal Executive Magistrate, Sirikonda Mandal, Nizamabad District.

2. Heard learned counsel for the petitioner and learned Government Pleaders for Revenue and Prohibition and Excise for the respondents.

3. Petitioner herein claims that he is an agriculturist by profession. On 29.08.2022, he was made to execute a bond of good behavior for an amount of Rs.2,00,000/-

4. While so, on 03.11.2022, a notice for forfeiture of bond of good behavior was issued by the second respondent alleging that petitioner committed breach of bond by involving in an offence under provisions of Telangana Excise Act, 1968. The basis of the said notice is letter addressed by the Prohibition and Excise Station, Bheemgal, Nizamabad District.

5. From a 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 amount furnished by him

earlier. That apart, the reason assigned for forfeiture is alleged involvement of the petitioner in a crime.

6. Mere involvement in a crime would not 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 03.11.2022 is unsustainable. Further, it is brought to the notice of this Court that under similar circumstances, this Court allowed a batch of Writ Petitions.

7. Accordingly, the impugned notice in RC.No.C/693/2022, dated 03.11.2022 is set aside and the Writ Petition is allowed.

8. However, it is made clear that this order would not preclude the authorities from proceeding in the matter in accordance with the principles of natural justice in future, if warranted. No order as to costs.

Miscellaneous applications, if any, pending shall stand closed.

//TRUE COPY//

SD/- G. SIREESHA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, Prohibition and Excise Department, Secretariat Buildings, The State of Telangana, Hyderabad.
2. The Tahsildar and Executive Magistrate, Sirikonda Mandal, Nizamabad District.
3. The Station House Officer, Prohibition and Excise Station, Bheemgal, Nizamabad District.
4. One CC to Sri S. Surender Reddy, Advocate [OPUC]
5. Two CCs to GP for Prohibition & Excise, High Court for the State of Telangana, at Hyderabad [OUT]
6. Two CCs to GP for Revenue, High Court for the State of Telangana, at Hyderabad [OUT]
7. Two CD Copies

TJ

GJP

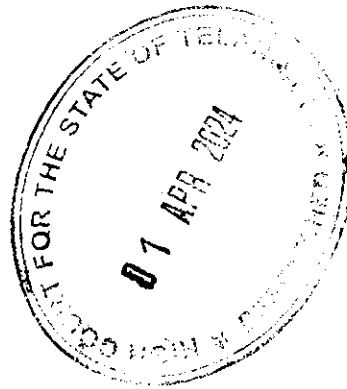
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HIGH COURT

DATED:16/02/2024

ORDER

WP.No.3693 of 2023



ALLOWING THE WRIT PETITION
WITHOUT COSTS.

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16/3/24