

HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

MAIN CASE No.W.P.No.2607 of 2023

PROCEEDING SHEET

Sl.No	DATE	ORDER	Office Note
	06.02.2023	<u>RRR, J</u> The petitioner was granted a Form-2B licence to run a Bar and Restaurant. The petitioner was running the said Bar and Restaurant under the name and style of M/s. Lake View Restaurant and Bar in Ramakrishna Nagar, SPSR Nellore District. This bar was inspected by the officials of the Excise Department and sample of liquor was taken for testing. After the results of the test had come, the 3rd respondent issued a show cause notice dated 20.01.2023 stating that it has been found that the petitioner had violated the licence conditions including Rule 38 of the A.P. Excise (Lease of Right of Selling by Bar, Grant and Conditions of Licence) Rules, 2022, which stipulated that the liquor offered for sale in the premises shall not be of substandard, deteriorated, supurious or adulterated. The petitioner was required to answer the show cause notice, as to why action should not be taken against the Bar licence of the petitioner within a period of 15 days. Aggrieved by the same, the petitioner has approached this Court by way of the	

		present writ petition. Sri O. Manohar Reddy, learned Senior Counsel appearing for M/s. OMR Law Firm, learned counsel for the petitioner, submits that the show cause notice itself is vitiated as the authority issuing the show cause notice has already made up his mind and has placed his conclusions in writing, in the show cause notice. He would further submit that the Hon'ble Supreme Court in the case of Oryx Fisheries Private Limited vs. Union of India and Ors.¹ had held, in Paragraph 27, that recording of such conclusions in the show cause notice, would vitiate the show cause notice itself. In the circumstances, there is a prima facie case in favour of the petitioner. Accordingly, the show cause notice, dated 20.01.2023, is suspended till further orders. Learned Government Pleader for Excise to file counter in the matter. Post on 01.03.2023. _____ RRR, J Js.	
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¹ (2010) 13 SCC 427