

APHC010193952024



IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)

[3331]

WEDNESDAY ,THE TWENTY FOURTH DAY OF APRIL  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

**WRIT PETITION NO: 9555/2024**

**Between:**

Kama Narayana Reddy,

**...PETITIONER**

**AND**

State Of Andhra Pradesh and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner:**

1.O M R LAW FIRM

**Counsel for the Respondent(S):**

1.GP FOR PROHIBITION EXCISE

**The Court made the following:**

W.P.No. 9555 of 2024

Rule *nisi*. Call for records.

Notice returnable in four (4) weeks.

---

**SUBBA REDDY SATTI,J**

I.A.No.1 of 2024:

The writ petition is filed impugning the proceedings issued by the 3<sup>rd</sup> respondent-Deputy Commissioner of Prohibition and Excise, Guntur *vide* Rc.No.240/2022/B2 dated 22.04.2024 whereby the authority suspended 2B

Bar license granted in favour of the petitioner by exercising power under Section 31 of A.P.Excise Act, 1968.

I.A.No. 1 of 2024 is filed seeking suspension of the proceedings pending writ petition.

Heard Sri O.Manohar Reddy, learned Senior Counsel assisted by Sri Prasanna Kumar, learned counsel for the petitioner and learned Assistant Government Pleader for Prohibition & Excise appearing on behalf of the respondents 1 to 4.

Learned Senior Counsel would submit that a case in Crime No.131 of 2024 was registered on the file of Darsi Police Station, Prakasam District under Sections 34(a) r/w 50(B), 36(1)(b&c), 41 of A.P.Excise Act and 171-E of Indian Penal Code, 1860. Later, Section 171-E of IPC was omitted/deleted by filing alteration memo.

The learned Senior Counsel while not disputing the power of the officer to suspend the license pending enquiry, would submit such power should be exercised judiciously and cannot be exercised in a routine manner. He also would submit that the suspension order has not indicated that the stock seized is the stock supplied to the petitioner.

The learned Government Pleader, when the court asked question as to whether the stock seized from absconded persons is the stock supplied to the license, would submit that nothing was mentioned in the suspension order. He seeks time to file counter affidavit.

Section 31 of A.P. Excise Act, 1968 postulates that the authority granting license or permit may cancel or suspend irrespective of the period to which the license or permit relates in the circumstances under (a) or (b) or (c) or(d) or (e). The proviso would clarify that the license or permit shall be cancelled or suspended unless the holder thereof is given an opportunity of making his representation against the action proposed.

The said proviso is considered by Full Bench of the Court in case of **Tappers Cooperative Societies, Maddur vs. Superintendent of Excise, Mahaboobnagar** (1984(2) APLJ Page 1). In Para 42, it was observed that the incidental or ancillary power cannot be exercised in a routine way or in the matter of course. The licensing authority is bound to exercise the discretion reasonably, bonafide and without negligence and without considering the circumstances of the case when interim suspension is necessary.

Case at hand, in the absence of a *prima facie* finding or material that the stock seized in front of the petitioner's Bar, is stock supplied to the petitioner as per license conditions, suspending the license pending enquiry, in the opinion of the Court, the authority failed to exercise discretion reasonably. Thus, the petitioner satisfied prima facie case for grant of interim order. If the petitioner's license is suspended the petitioner will suffer irreparable loss which cannot be compensated.

In view of the same, the order *vide* Rc.No.240/2022/B2-1, dated 22.04.2024 suspending the license in Form 2B of petitioner's Bar bearing L.No.24/2022-25, Sy.No.794/6, D.No.4-156B, Podili Road, Darsi Nagara Panchayat, Prakasam District is hereby suspended.

However, this order will not preclude the authorities from proceeding with further enquiry as per the law.

Learned Assistant Government Pleader for Prohibition & Excise seeks time to file counter-affidavit.

List the matter after Summer Vacation-2024.

---

**SUBBA REDDY SATTI,J**

KA

