

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WEDNESDAY, THE TWENTY FOURTH DAY OF APRIL,

TWO THOUSAND AND TWENTY FOUR ✓

:PRESENT:

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

IA No. 1 OF 2024

IN

WP NO: 9555 OF 2024



Between:

Kama Narayana Reddy, S/o. Nagi Reddy, Aged about 69 years, Occ:
Business, Licensee of M/s.KB Restaurant and Bar, Sy.No.794/6, D-No.4-
1568, Podili Road, Darsi Nagar Panchayat, Prakasam District.

...Petitioner

(Petitioner in WP 9555 OF 2024

on the file of High Court)

AND

1. State of Andhra Pradesh, Revenue (Excise-II) Department Secretariat,
Velagapudi, Amaravathi, Guntur District, Rep. by its Principal Secretary.
2. The Commissioner of Prohibition and Excise, Government of Andhra
Pradesh, Vijayawada at Krishna District.
3. Deputy Commissioner of Prohibition and Excise, Guntur.
4. District Prohibition and Excise Officer, Prakasam District at Ongole.

...Respondents

(Respondents in-do-)

Counsel for the Petitioner :

M/s O.M.R.LAW FIRM

Counsel for the Respondents :

GP FOR PROHIBITION EXCISE

Petition under Section 151 CPC is filed praying that in the
circumstances stated in the affidavit filed in support of the writ petition, the
High Court may be pleased to permit the petitioner to conduct the business by
suspending the order of the Deputy Commissioner of Prohibition and Excise,

Guntur passed in RC.No.240/2022/B2-1 dated 22.04.2024, pending disposal of WP No.9555 of 2024, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER:

“The writ petition is filed impugning the proceedings issued by the 3 rd 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.”

//TRUE COPY//

For /

Sd/- S. SRINIVASA PRASAD
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, State of Andhra Pradesh, Revenue (Excise-II)
Department Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Commissioner of Prohibition and Excise, Government of Andhra
Pradesh, Vijayawada at Krishna District.
3. The Deputy Commissioner of Prohibition and Excise, Guntur.
4. The District Prohibition and Excise Officer, Prakasam District at Ongole.
(Addressee Nos.1 to 4 By RPAD)
5. One CC to M/s O.M.R.Law Firm [OPUC]
6. Two CCs to GP for Prohibition Excise, High Court of Andhra Pradesh.
[OUT]
7. One spare copy

MM

HIGH COURT

SRS,J

DATED:24/04/2024

ORDER

NOTE: LIST THE MATTER AFTER SUMMER VACATION, 2024

IA.No.1 OF 2024
IN
WP.No.9555 of 2024

INTERIM SUSPENSION

