

APHC010207702024



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

[0]

WEDNESDAY ,THE FIRST DAY OF MAY
TWO THOUSAND AND TWENTY FOUR

PRESENT

WRIT PETITION NO: 10235/2024

Between:

Challa Chinna Subba Rao

...PETITIONER

AND

The 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 (AP)

The Court made the following:

Impugning the proceedings issued by the 3rd respondent-Deputy Commissioner of Prohibition and Excise, Guntur *vide* Rc.No.182/2022/B2 dated 29.04.2024 whereby the authority suspended 2B Bar license of M/s DV Restaurant & Bar bearing L.No.22/2022-25, D.No.5-41A, Ward No.5, Pamur Road, Kothuru, Kanigiri Nagara Panchayat, Prakasam District, the above writ petition is filed.

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 contend that the 3rd respondent failed to exercise the power vested with the authority judiciously. He would submit that suspending the license pending enquiry cannot be exercised in a routine manner. Learned Senior Counsel relied upon the judgment reported in **Tappers Cooperative Societies, Maddur vs. Superintendent of Excise, Mahaboobnagar** (1984(2) APLJ Page 1).

The learned Government Pleader would submit that suspension order passed by the authority is pending enquiry. The petitioner breached the conditions of license.

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.

In view of the ratio laid down in the Full Bench judgment referred to supra, in the facts and circumstances of the case, the order *vide* Rc.No.182/2022/B2, dated 29.04.2024 suspending the license in Form 2B of petitioner's Bar bearing L.No.22/2022-25, D.No.5-41A, Ward No.5, Pamur Road, Kothuru, Kanigiri 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

Dated 01.05.2024
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