

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

FRIDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

:PRESENT:

HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD
WRIT PETITION NO: 28786 OF 2024



Between:

Kondapalli Ganesh, S/o Koteswara Rao Aged about 33 years, Occ:
Business R/05-4-28, Station Basthi, Yellandu, Khammam District,
Telangana State

Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary Prohibition and Excise Department AP Secretariat, Velagapudi, Amaravati, Guntur District.
2. The Commissioner of Prohibition and Excise, Vijayawada, Andhra Pradesh.
3. The Deputy Commissioner of Prohibition and Excise, Ananthapuram, Ananthapuramu District.
4. The District Prohibition and Excise Officer, Puttaparthi, Sri Satyasai District.
5. The Station House Officer, Prohibition and Excise Station, Dharmavaram Sri Satyasai District.
6. The Dy. Superintendent of Police (DSP), Dharmavaram, Sri Satya Sai District
7. The Station House officer, Tadimarri Police Station Sri Satya Sai District

Respondents

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may

be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus

- 1) To declare the impugned notice in Rc. No. 07/2024/B dated 29-11-2024 issued by the 4th respondent as illegal, arbitrary
- 2) To declare the action of the respondent Nos 6 and 7 in locking the petitioner's A4 licensed shop at Door No. 1/811/1 of Tadimarri Village and Mandal, Sri Satya Sai District is illegal, arbitrary, highhanded and without jurisdiction.
- 3) and consequently direct the respondents to allow the petitioner to conduct his business on the A4 license issued at premises bearing Door No.1/811/1 of Tadimarri Village and Mandal, Sri Satya Sai District by providing the necessary security.

IA NO: 2 OF 2024 :

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent Nos. 6 and 7 to permit the petitioner to run his licensed business by opening the lock of the petitioner's shop by providing necessary protection/security to the petitioner's shop in the interest of the justice, Pending disposal of WP 28786 of 2024, on the file of the High Court.

IA NO: 1 OF 2024 :

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend all further proceedings in pursuance of Notice in Rc.No.07/2024/B dated 29-11-2024 issued by the 4th respondent, Pending disposal of WP 28786 of 2024, on the file of the High Court.

— The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri KIRAN TIRUMALASETTI Advocate for the Petitioner and of GP FOR PROHIBITION EXCISE for the Respondent Nos.1 to 4 and of GP FOR HOME for the Respondent Nos.5 to 7, the Court made the following

ORDER:

“Heard Sri Chidambaram, learned Senior Counsel appearing on behalf of Sri T. Kiran, learned Counsel for the Writ Petitioner; Sri P. Nagaraju, learned Government Pleader for Excise and Sri P. Ajay Babu, learned Assistant Government Pleader for Home.

2. Sri P. Nagaraju, learned Government Pleader for Excise has drawn the attention of this Court to the third proviso to Rule 22 of the Andhra Pradesh Excise (Grant of Licence of Selling by Shop and Conditions of Licence) Rules, 2024 (for short ‘Rules, 2024’), which imposed a mandate on the A-4 shop licence holders to commence their business from the date on which the licence is granted or such other date etc., He has also drawn the attention of this Court to Rule 29 of the Rules, 2024, which deals with hours of business. Learned Government Pleader would submit that, it is a mandate on the part of the A-4 licence holders to commence the business from the date of grant of licence and also to keep the A-4 shop open during the prescribed business hours. He would submit that the State is also interested in augmenting its financial resources by ensuring the conduct of the business of the A.4 licencees within the timings prescribed.

3. Sri P. Ajay Babu, learned Assistant Government Pleader for Home has submitted the Written Instructions furnished by the Sub-Inspector of Police, Tadimarri P.S dated 06.12.2024. Copy of the Written Instruction is also furnished to the learned Senior Counsel appearing for the learned Counsel for the Writ Petitioner. The same is taken on record.

4. Learned Senior Counsel appearing for the Writ Petitioner has submitted that the impugned notice dated 29.11.2024 is contrary to the provisions of the Statute and Rules. He would submit that the Writ Petitioner is always willing to conduct the business in terms of the Rules. He would submit that there was Law and Order situation which arose on the account of certain local and political factors. He has also drawn the attention of this Court to the photographs (Ex.P.5) which

reflects the fact that the public and the police have gathered in front of the shop. He would submit that, it is only on account of Law and Order situation prevailing at that spot that the Writ Petitioner could not conduct his business. This submission by the learned Senior Counsel is also supported by the contents of the Written Instruction furnished by the Sub Inspector of Police, Tadimarri P.S dated 06.12.2024. It is stated in the Written Instruction that the Station House Officer, Tadimarri P.S has received credible information on 24.10.2024 that there was Law and Order situation prevailing near the shop of the Writ Petitioner.

5. In this view of the matter, *prima-facie*, this Court is of the opinion that the Writ Petitioner was not averse to conduct of the business and that he could not conduct the business in terms of the Rules, for the reasons that were beyond the control of the Writ Petitioner as reflected from the Written Instruction submitted by the Sub-Inspector of Police, Tadimarri P.S dated 06.12.2024 and the photographs at Ex.P.5.

6. In this view of the matter, this Court is of the opinion that the Writ Petitioner shall be permitted to run his business until further Orders. Accordingly, there shall be a direction to the Official Respondents to permit the Writ Petitioner to run his business under A-4 licence until further Order.

7. Let Counter Affidavit be filed within two weeks. One week thereafter for filing Rejoinder, if any.

8. Learned Government Pleader for Excise is directed to convey the gist of this Order to the Competent Authority forthwith in order to enable the Writ Petitioner to commence his business from tomorrow onwards.

9. List the matter on 06.01.2025."

//TRUE COPY//

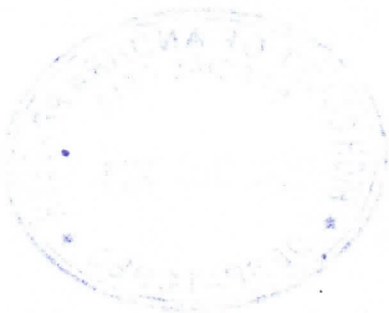
SD/-B.CHITTI JOSEPH
ASSISTANT REGISTRAR
SECTION OFFICER

For ASSISTANT REGISTRAR

To,

1. The Principal Secretary Prohibition and Excise Department, State of Andhra Pradesh, AP Secretariat, Velagapudi, Amaravati, Guntur District. **[by SPL. MESSENGER]**
2. The Commissioner of Prohibition and Excise, Vijayawada, Andhra Pradesh.
3. The Deputy Commissioner of Prohibition and Excise, Ananthapuram, Ananthapuramu District.
4. The District Prohibition and Excise Officer, Puttaparthi, Sri Satyasai District.
5. The Station House Officer, Prohibition and Excise Station, Dharmavaram Sri Satyasai District.
6. The Dy. Superintendent of Police (DSP), Dharmavaram, Sri Satya Sai District
7. The Station House officer, Tadimarri Police Station Sri Satya Sai District
(2 to 7 by SPEED POST)
8. One CC to SRI. KIRAN TIRUMALASETTI Advocate [OPUC]
9. Two CCs to GP FOR PROHIBITION EXCISE ,High Court Of Andhra Pradesh. [OUT]
10. Two CCs to GP FOR HOME, High Court Of Andhra Pradesh.
[OUT]
11. **One spare copy**

ER



HIGH COURT

GRKP, J

DATED:06/12/2024

LIST THE MATTER ON 06.01.2025

ORDER

WP.No.28786 of 2024

DIRECTION

