

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.5618 of 2018

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise for the respondents and perused the prayer in the writ petition with supporting affidavit and written instructions of the learned Government Pleader.

2. The prayer in the writ petition reads as follows:

“.....to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not renewing the Licence of the T.F.T. Toddy Shop, (License No.04) of Bekkem Village, Chinnambavi Mandal, Wanaparthi District of the petitioner as illegal, arbitrary and violative of Article 14 of the Constitution of India and also contrary to the provisions of the AP Excise Act and rules made there under consequently direct the respondents to renewing the Licence of the T.F.T. Toddy Shop, (License No.04), of Bekkem Village, Chinnambavi Mandal, Wanaparthi District of the petitioner and to pass such other order or orders as this Hon'ble court may deems fit just and proper in the circumstances of the case.”

3. It is the supporting affidavit averment that the respondents without any cause arbitrarily not renewing the T.F.T. toddy shop licence No.04 of the petitioner at Bekkem Village of Chinnambavi Mandal, even the licence was originally granted for the period till 30.09.2017 and he applied for renewal with no due certificate obtained from the Inspector, Prohibition and Excise, Wanaparthi, dated 09.11.2017, and their cause is as if the toddy in the shop from

their alleged ride on 22.02.2017 was found adulterated with no truth therein including as mentioned in his representation of January, 2018, in this regard. Thereby, he is constrained to file the writ petition complaining the inaction of the respondents who are bound to renew the licence for no justification for non renewal.

4. The written instructions of the learned Government Pleader speaks that they issued a show-cause notice, dated 15.09.2017, to submit the explanation by suspending the licence pending enquiry and further orders to be passed pursuant to the show-cause notice and subsequently for his failure to submit any explanation to the said show-cause notice within the statutory time for the contravention of Rule 16 of the T.S. Excise (Grant of Licence to sell toddy, Conditions and tapping of Excise trees) Rules, 2007 and Section 8(c) of N.D.P.S.Act, 1985, the licence was already cancelled under Section 31 of the T.S. Excise Act, 1968 and thereby the writ petition relief in seeking to renew is infructuous.

5. The written instructions itself clearly speaks of statutory appeal under Section 63 of Excise Act, 1968.

6. Having regard to the above, the writ petition is disposed of giving liberty to the petitioner, within two weeks from the date of receipt of a copy of this order, to maintain statutory appeal under Section 63 of the Act, for the authority i.e., Deputy Commissioner shall entertain the appeal without insisting for period of limitation and dispose of the same on merits after due enquiry by opportunity.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

13th March 2018

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Dr. B. SIVA SANKARA RAO, J

