

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION No.10271 OF 2024

M/s Teja Bar and Restaurant, D.No.4/608 & 4/609, Ayyaswamy Pillai Street, Near Old Bus Stand, Kadapa Municipal Corporation, YSR Kadapa District, represented by its Licensee G.Tejdeep Reddy.

... Petitioner

Versus

The State of Andhra Pradesh, Represented by its Principal Secretary, Excise Department, Secretariat Buildings, Velagapudi, Amaravati, Guntur District and two others.

... Respondents

Counsels for the petitioner : Sri Ravula Nagarjuna

Counsel for respondents : GP for Excise

ORDER

Heard Sri O.Manohar Reddy, learned Senior Counsel assisted by Sri Ravula Nagarjuna, learned counsel for the petitioner and Sri Narsi Reddy, learned Government Pleader for Prohibition & Excise appearing on behalf of the respondents.

2. The writ petition is filed to declare the suspension order *vide* Rc.No.B/112/2022 dated 29.04.2024 issued by the 2nd respondent- Deputy Commissioner, Prohibition & Excise, Kurnool, in suspending the petitioner's Bar license without considering the explanation

submitted by the petitioner, without affording opportunity of personal hearing and without assigning any reasons, as illegal and arbitrary.

3. The grievance of the petitioner is that show-cause notice *vide* Rc.No.B/112/2022 dated 20.04.2024 was issued to the petitioner pursuant to registration of case in Crime No.215 of 2024 dated 18.04.2024 of Special Enforcement Bureau Station, Kadapa under Section 36(1) (b&c), 41 of Andhra Pradesh Excise Act, 1968 r/w Rules 31, 41 and 48 of Andhra Pradesh Excise (Lease of Right of Selling by Bar, Grant and conditions of License) Rules, 2022. Ten days' time was granted to the petitioner to submit explanation. The petitioner submitted explanation on 29.04.2024. On the same day, the 3rd respondent passed order suspending the license *vide* proceedings Rc.No.B/112/2022 dated 29.04.2023.

4. Learned Senior Counsel would submit that the order of suspension suffers from violation of principles of natural justice. He would also submit that the order of suspension does not indicate the reasons for suspending the petitioner's bar license. In support of the said contention, learned Senior Counsel placed relied upon the judgment reported in case of **Assistant Commissioner,**

**Commercial Tax Department, Works Contract & Leasing, Kota
vs. M/s Shukla & Brothers¹.**

5. Learned Government Pleader on the other hand would contend that after considering the explanation, the suspension order dated 29.04.2024 was passed. The petitioner is having effective alternative remedy of appeal under Section 63(2) of Andhra Pradesh Excise Act, 1968 before the Commissioner of Prohibition & Excise, A.P., Vijayawada.

6. With the consent of both the learned counsel, the writ petition is disposed of at the stage of admission.

7. The point for consideration is whether the proceedings impugned, the authority afforded opportunity to the petitioner and assigned reasons? If not, the proceedings are liable to be set aside.

8. As seen from the contents of suspension of 2B Bar license, the Enforcement Inspector, Special Enforcement Bureau (SEB) conducted decoy operation. Accordingly, the Enforcement Inspector, SEB Station, Kadapa has purchased one 180 ml liquor bottle of Old Admiral VSOP Brandy, Enforcement Constable, SEB Kadapa Station has purchased two 180 ml liquor bottles of Daaruu House

¹ {(2010) 30 VST 114(SC)}

Brandy; ESI, Kadapa Station has purchased one 180 ml liquor bottle of Royal Palace VSOP Brandy. The authority made another person to purchase one 180 ml of Old Admiral VSOP Brandy and one 180 ml of Royal Palace VSOP Brandy etc. A case in Crime No.215 of 2024 was registered for the offences referred to supra. Show cause notice was issued and the petitioner submitted explanation and pleaded that he did not violate the conditions.

9. It is pertinent to mention here that the order of suspension, impugned, is running into six pages. The first two and half pages of the order contain the details of case. Third page bottom to fourth page, the petitioner's explanation was extracted. At the bottom of page 4 findings were recorded.

10. In the findings, the authority extracted Rules, 41, 31, 48, 61 and 62 of A.P.Excise (Lease of Right of Selling by Bar, Grant and conditions of license) Rules 2022. Eventually, the authority concluded that the explanation submitted by the petitioner is carefully examined and it is not satisfactory. No reasons much less valid reasons were assigned by authority except stating that the explanation is not satisfactory. Reasons are heart and soul of every order.

11. In **Gurdial Singh Fijji vs. State of Punjab**², the Court held as under:

“... “Reasons” are the links between the materials on which certain conclusions are based and the actual conclusions..”

12. In fact, reasons are heart and soul of the order passed by the authority. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice.

13. The Hon’ble Apex Court in case of **S.N.Mukherjee vs. Union of India**³ while emphasizing the importance of recording of reasons for decisions by the Administrative authorities and Tribunals observed that “*administrative process will best be vindicated by clarity in its exercise*”. Thus, further observed “the orderly functioning of the process of review requires that the grounds upon which the administrative agency acted be clearly disclosed and adequately sustained.”

² [(1979) 2 SCC 368]

³ {(1990) 4 SCC 594}

14. In the case of **Mc Dermott International Inc. Vs. Burn Standard Co. Ltd. And Ors.**⁴ The Apex Court clarified the rationality behind providing of reasons and stated the principle as follows:

“... Reason is a ground or motive for a belief or a course of action, a statement in justification or explanation of belief or action. it is in this sense that the award must state reasons for the amount awarded.

The rationale of the requirement of reasons is that reasons assure that the arbitrator has not acted capriciously. Reasons reveal the grounds on which the Arbitrator reached the conclusion which adversely affects the interests of a party. The contractual stipulation of reasons means, as held in Poyser and Mills' Arbitration in Re, 'proper adequate reasons'. Such reasons shall not only be intelligible but shall be a reason connected with the case which the Court can see is proper. Contradictory reasons are equal to lack of reasons...”

15. Thus, as seen from the suspension order dated 29.04.2024, no reasons are assigned except mentioning that the explanation is not satisfactory. Apart from that, the suspension order, impugned does not indicate period of suspension. The authority shall mention period of suspension also in the order. On both counts i.e. violation of principles of natural justice as also non mentioning of period of suspension the order cannot withstand the legal scrutiny.

⁴ (2006) SLT 345

16. In view of the above discussion, the suspension order *vide* Rc.No.B/112/2022 dated 29.04.2023 is liable to be set aside and accordingly set aside.

17. Accordingly, the Writ Petition is allowed setting aside the suspension order *vide* Rc.No.B/112/2022 dated 29.04.2023 of the 2nd respondent. However, this order will not preclude the authority to proceed further in accordance with law. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand dismissed.

JUSTICE SUBBA REDDY SATTI

Date: 01.05.2024
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10

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Dated 01.05.2024
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