

**(2010) 01 KAR CK 0073**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 843 of 2010**

Smt. Lalithamma

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

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**Date of Decision :** 12-01-2010

**Acts Referred:**

Karnataka Excise Act, 1965 — Section 13, 14, 15, 32 (1), 38 A

**Citation :** (2010) 1 KarLJ 669

**Hon'ble Judges :** B.S. Patil, J

**Bench :** Single Bench

**Advocate :** M.V. Vedachala, for the Appellant; R. Devdass, A.G.A., for the Respondent

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## Judgement

B.S. Patil, J.—Learned Additional Government Advocate is directed to take notice for the respondents.

2. Having regard to the nature of the relief sought which lies in a short compass, the matter is taken up for final disposal with the consent of both the parties.

3. Challenge in this writ petition is to the order suspending CL-2 licence possessed by the petitioner, pending enquiry into the illegality and irregularities committed by her.

4. The Deputy Commissioner, Mysore District, Mysore-respondent 2 herein has passed the impugned order on 14-12-2009 vide Annexure-D suspending the licence, pending enquiry. The allegations against the petitioner relate to having physical possession of excess liquor unaccounted which appeared to be spurious and adulterated. The said liquor, in the opinion of the Deputy Commissioner was meant for sale illegally and therefore the petitioner was prima facie found to have committed irregularities punishable under the provisions of the Karnataka Excise Act, 1965 as per Sections 13, 14 and 15 read with Sections 32(1), 37, 38-A and 43 of the Act. In fact, it is found that a case is registered in this regard and the enquiry was fixed on 24-11-2009. Taking note of the complaint filed and

the case registered and on being prima facie satisfied that the petitioner was in possession of the spurious liquor and was selling the same, keeping in mind the interest of the public and health of the Consumers, the Deputy Commissioner has passed the impugned order suspending CL-2 licence held by the petitioner, pending enquiry.

5. Learned Counsel appearing for the petitioner submits that as per Annexure-C - report of the Chemical Analyst dated 20-11-2009 nothing was found in the liquor which was harmful to the consumers and therefore the opinion formed by the Deputy Commissioner to the effect that the petitioner was in possession of spurious liquor and was selling adulterated material is totally baseless.

6. The learned Additional Government Advocate submits that the impugned order refers to several factors based on which the Deputy Commissioner has formed prima facie opinion that the petitioner was illegally carrying on the sale of liquor and therefore pending enquiry into the allegations, the licence was suspended which is unexceptional.

7. Upon hearing the learned Counsel for both the parties and on perusal of the materials on record, I find that this is not a case of cancellation of licence, but of suspension of the licence pending enquiry. The opinion formed by the Deputy Commissioner, as is evident from the impugned order, is based on prima facie material placed before him. What is the effect of the report of the Chemical Analyst, which is produced at Annexure-C, is a matter to be taken note of at the time of enquiry. Therefore, I decline to interfere in the matter. Hence, the writ petition is dismissed.

8. However, in view of the submission made by the learned Counsel for the petitioner apprehending that the disposal of the case may get delayed before the Deputy Commissioner, I deem it appropriate to direct the Deputy Commissioner-2nd respondent herein to conduct necessary enquiry and complete the same within a period of two months from the date of receipt of a copy of this order.

9. Learned Additional Government Advocate is permitted to file memo of appearance within four weeks from today.