(2016) 06 KAR CK 0083

In the Karnataka High Court

Case No : Writ Petition No. 18056 of 2016 (Excise)

Smt. Prema Kumari APPELLANT

Vs

The Grama Panchayat RESPONDENT

Date of Decision : 29-06-2016

Acts Referred:

Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 — Rule 12

Citation : (2016) 5 KantLJ 326

Hon'ble Judges : Dr. Vineet Kothari, J.

Bench : Single Bench

Advocate : Sri. P.P. Hegde, Advocate, for the Petitioner; Sri. T.K. Vedamurthy, AGA, for the Respondent Nos. 2 and 3; Sri. G.R. Srinivas, Advocate, for the Impleading Applicant in I.A. 1/16; Sri. B.N. Shetty, Advocate, for the Impleading Applicant in I.A. 2/16; Is s

Final Decision : Disposed Off

Judgement

Dr. Vineet Kothari, J.—The petitioner has filed this writ petition with the following prayers:

(a) Issue a writ of mandamus, directing the respondents to consider the representation of the petitioner which is produced at Annexure-A;

(b) Issue a writ or proper order, directing the respondents to fix the number of liquor shops in Mattur Village, Hosadurga Taluk, Chitradurga District in accordance with Rules; and

(c) Grant such other and further reliefs as the Hon''ble Court deems fit to grant under the circumstances of the case, in the interest of justice and equity.

2. The petitioner submits that the Commissioner of Excise should be directed to consider the representation of the petitioner to fix the number of liquor licence to be granted in a particular area in terms of Rule 12 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 hereinafter referred to as ''the Rules'' of 1968).

3. The representation - Annexure-A, dated 1-3-2016 in this regard is however not addressed to the Excise Commissioner but to the respondent-Grama Panchayat, Mattur, Hobli and Deputy Commissioner of Excise as well as Deputy Commissioner, Chitradurga.

4. The prayer as prayed in the writ petition cannot be granted by this Court at this stage and it is for the petitioner to first approach the learned Excise Commissioner in terms of Rule 12 of the Rules 1968 which is quoted below for ready reference:

"12. Number of licences to be fixed.-(1) The maximum number of licences to be granted in an area shall be determined from time to time by the Excise Commissioner with the previous approval of the State Government.

(2) The number of retailers licences to be granted in a Taluk for the year shall be determined with reference to the population of such taluk and the probable demand.

(3) The number of retail licences to be granted in a Taluk shall be as follows:

(a) One retail licence for every 7,500 urban population or a fraction thereof exceeding 3,500; and

(b) One retail licence for every 15,000 rural population or a fraction thereof exceeding 7,500."

5. Learned Counsel for the petitioner and the learned Counsel appearing for the State as well as the impleading applicants fairly suggested that let the Excise Commissioner pass appropriate order on the representation filed by the petitioner, which will be treated as a representation filed to the Excise Commissioner.

6. Having heard the learned Counsels, this Court is of the opinion that the present writ petition deserves to be disposed of with a direction to the petitioner to file the same representation or an additional representation before the Excise Commissioner in terms of Rule 12 of the Rules 1968 and the said Commissioner is expected to decide such a representation after giving an opportunity of hearing to the petitioner by passing appropriate order in terms of Rule 12 of Rules, 1968. Thereafter, the respondents 2 and 3 will be at liberty to proceed further for considering the applications for grant of renewal of the existing licence/ application for shifting and fresh grants in terms of the said order passed by the learned Excise Commissioner. The said authority is expected to pass appropriate order in terms of Rule 12 of the Rules, 1968 within three months from today.

7. With this observation, the writ petition is disposed of. No costs.

8. In view of the aforesaid order, the impleading applications infructuous and are also disposed of.