
(2002) 08 AP CK 0106

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13864 of 2002

Toddy Cooperative Society

APPELLANT

Vs

The Dy. Commissioner of Proh. and Excise

RESPONDENT

Date of Decision : 01-08-2002

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2002) 08 AP CK 0106

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : B. Sai Ram Goud, for the Appellant; Asst. Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

V.V.S. Rao, J.—The petitioner impugns the order passed by the 1st respondent on 16-7-2002 in exercise of powers under sub-section (1) of Section 63 of the A.P. Excise Act, 1968 (for short "the Act"). It is the case of the petitioner that petitioner's licence bearing No. E3/TL/1636/2001, dated 3-10-2001 was initially suspended and later, on receipt of report of the Government examiner regarding the sample drawn from petitioner's shop to the effect that the toddy is adulterated the same was cancelled by the 2nd respondent by proceedings in RC. No. E4/594/2002, dated 5-7-2002. The petitioner filed an appeal under sub-section (1) of Section 63 of the Act before the 1st respondent who rejected the appeal by passing a brief laconic order which reads as under:

It is seen that the petitioner's licence has been cancelled for indulgence is selling toddy adulterated with chloral hydrate. Recalling the Hon'ble High Court of A.P., Hyderabad in W.P. No. 5406/99, dt 31.8.2001 held their result of second sample is not relevant for departmental action, when the 1st sample establishes adulteration.

Hence, interference with impugned cancellation proceedings is not warranted.

The appeal is accordingly dismissed.

2. The learned counsel for the petitioner Sri B. Sai Ram Goud submits that the impugned order must suffer invalidation under Article 226 of the Constitution of India for non-disclosure of reasons. The fact that the reasons are scant is not seriously disputed by the learned Assistant Government Pleader.

3. There cannot be any denial that the 1st respondent is exercising quasi-judicial powers when he sits in appeal under sub-section (1) of Section 63 of the Act over the orders passed by the 2nd respondent. The quasi-judicial authority, it is well settled, is required to give reasons for its decision. In the absence of reasons it would not be possible as to whether the appellate authority has considered all relevant aspects duly eschewing the irrelevancies. The disclosure of reasons by quasi-judicial appellate authority is a safeguard for keeping administrative arbitrariness to its minimum and safeguarding equality before law as enshrined in Article 14 of the Constitution of India. When reasons are not assigned it would also violate principles of natural justice as observed by the Constitutional Bench of the Supreme Court in *S.N. Mukherjee Vs. Union of India*, . In the said case the Supreme Court considered the question whether there is any general principle of law which requires an administrative authority to record reasons for its decision. After referring to the case law as obtaining in other jurisdictions as well as the decisions of the Supreme Court, the unanimous Court held thus:

.... The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework where under jurisdiction has been conferred on the administrative authority. With regard to the exercise of a particular power by an administrative authority including exercise of judicial or quasi-judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement. It may do so by making an express provision to that effect as those contained in the Administrative Procedure Act, 1946 of U. S. A. and the Administrative Decisions (Judicial Review) Act, 1977 of Australia whereby the orders passed by certain specified authorities are excluded from the ambit of the enactment. Such an exclusion can also arise by necessary implication from the nature of the subject matter, the scheme and the provisions of the enactment. The public interest underlying such a provision would outweigh the salutary purpose served by the requirement to record the reasons. The said requirement cannot, therefore, be insisted upon in such a case.

4. It was further held:

For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required

to record the reasons for its decision.

5. The Indian constitutional governance must adhere to rule of law. The power of judicial review vested in this Court is intended to uphold rule of law. When Constitution provides a remedy to an aggrieved citizen to seek judicial review of a decision either in the administrative, quasi-judicial or judicial jurisdiction, in the absence of reasons judicial review would be rendered useless, for, the court would not be in a position to appreciate any discernible principle in arriving at the decision by the authority concerned.

6. The impugned order, for the above reasons, must be held to be improper and is liable to be set aside. The impugned order passed by the 1st respondent is set aside and the writ petition is allowed. The matter stands remitted to the Deputy Commissioner (Prohibition & Excise) for being disposed of by passing a speaking appellate order within a period of two weeks from the date of receipt of a copy of this order duly complying with the provisions of law.