
(2000) 06 AP CK 0084

In the Andhra Pradesh High Court

Case No : Writ Petition No. 9056 of 2000

Toddy Tappers Co-op. Society

APPELLANT

Vs

Prohibition and Excise Supdt. and Others

RESPONDENT

Date of Decision : 23-06-2000

Acts Referred:

Citation : (1996) 2 ALD 691

Hon'ble Judges : Goda Raghuram, J

Bench : Single Bench

Advocate : T. Amarnath Goud, for the Appellant; G.P., for the Respondent

Final Decision : Dismissed

Judgement

Goda Raghuram, J.—The Toddy Tapers Cooperative Society, Mallapur, in these proceedings seeks a declaration that the action of the respondents in forming and registering a new TCS at Ashok Nagar, Ward No.6, Mallapur, Kapra Municipality, R.R. District, without affording a reasonable opportunity to the petitioner, without bifurcating the society and without deleting the area of operation of TCS, Mallapur, is illegal and arbitrary and for a consequential direction to the respondents not to form and register a new TCS at Ward-6 Ashoknagar Colony, Mallapur(v), Kapra Municipality.

2. The petitioner society is stated to have been formed in 1985. A licence has been granted in favour of the society which has been renewed from time to time, with the validity of the present licence enuring up to 30.9.2001.

3. The erstwhile Kapra Major Gram Panchayat has been constituted as Municipality during 1988-89. On such constitution the village of Mallapur was included in Kapra Municipality. The petitioner urges that the entire area of operation of erstwhile Mallapur village now encompasses as Ward Nos.5,6,12,13 of Kapra Municipality. While so the petitioner is stated to have come to know that some third parties have filed an application for forming and registering a new TCS at Ward-6 in Ashoknagar Colony in Kapra Municipality and are seeking to

obtain a licence for selling toddy. Apprehending that if such society is formed and licence granted, there would be a diminution of the area of operation of the petitioner society and consequent loss of business to the petitioner society, these proceedings have been instituted seeking the relief adverted to above.

4. The petitioner asserts that the Excise authorities (respondents) are disentitled to consider any request for formation of new TCS without hearing the petitioner society. It is also stated that the General Body of the petitioner society has clarified that the area of operation of Mallapur Society includes Wards 5,6,12 and 13 of Kapra Municipality and on the basis of the said resolution the petitioner has represented before the respondents that a new TCS at Ashoknagar in Ward-6 of Kapra Municipality cannot be formed nor licence granted.

5. By way of interim relief a direction to the respondents not to form and register a new TCS at Ward-6 Ashoknagar colony, Kapra Municipality was sought and by the orders of this court dt.23.5.2000 an interim direction was granted not to pass any orders in the meanwhile.

6. Respondents 4 to 7 have impleaded themselves in this writ petition. They stated that they are initially residents of Ashoknagar village, which has also been included in Kapra Municipality on its constitution. The said respondents along with other tappers of the area applied to the Prohibition & Excise Superintendent, R.R. District requesting permission to form a new Cooperative Society at Ashoknagar in Kapra Municipality. On the said application a tapping test was conducted and recommendations made for formation of new TCS at Ashoknagar, Kapra Municipality. As the society was about to be granted licence the writ petition has been filed and the interim order obtained, is the grievance. It is categorically contended that while the erstwhile Ashoknagar village and the surrounding colonies are now in Ward-6 of Kapra Municipality, the erstwhile Mallapur village is in Ward-12. These respondents contend that the area of the operation of the petitioner society is confined to the present Ward-12 of the Kapra Municipality. It is also stated by these respondents that the writ petitioner-Society sought inclusion of Wards 5,6 and 13 also in the area of its operation by seeking approval of the amendment of Bye-law No.1 of the petitioner society. These proposals of the petitioner society been rejected by the proceedings of the Prohibition & Excise Superintendent, R.R. District dt.20.5.2000.

7. This court had occasion to consider a similar question in W.P.No.9057 of 2000 and a similar relief as sought by the petitioner society herein was rejected by this court by the judgment dt.9.6.2000.

In view of the rejection of the request of the petitioners for amendment of Bye-law No.1 of their society and enlargement of area of operation to include Wards 5,6 & 13 of the Kapra Municipality by the orders of the Prohibition & Excise Superintendent, R.R. Dist. dt.20.5.200, the petitioner society has no manner of right to resist an application for the formation of a new TCS in Ashoknagar colony in Ward-6 of Kapra Municipality. In the considered view of this court the

petitioner society does not have an exclusive or monopolist right to foreclose the formation of a TCS in areas beyond the area of its operation. In the premise there is no warrant whatsoever for grant of the relief as prayed for in this writ petition.

8. The writ petition is accordingly dismissed. The interim order of this court dt.23.5.2000 is dissolved. No costs.