
(2004) 07 AP CK 0076

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12294 of 2004

Venkateshwara Wines

APPELLANT

Vs

Superintendent of Prohibition and Excise and Others

RESPONDENT

Date of Decision : 16-07-2004

Acts Referred:

Andhra Pradesh Excise Act, 1968 — Section 31(1)

Citation : (2004) 4 ALD 681 : (2004) 4 ALT 495

Hon'ble Judges : S. Ananda Reddy, J

Bench : Single Bench

Advocate : B. Sai Ram Goud, for the Appellant;

Judgement

S. Ananda Reddy, J.—This writ petition is filed by the petitioner aggrieved by the impugned order passed by the first respondent dated 6.7.2004 under which the licence of the petitioner was suspended on certain irregularities said to have been committed by him with reference to which, the first respondent proposed to conduct enquiry. Pending enquiry, the licence of the petitioner was suspended.

2. The main contention of the petitioner is that the first respondent exercised the power u/s 31(1)(e) of Andhra Pradesh Excise Act, 1968 (for short "the Act"). But, while exercising the said power u/s 31(1)(e) of the Act, the first respondent failed to follow the proviso, which contemplates for issuance of a notice before suspending the licence. As the first respondent failed to follow the said proviso and also failed to comply with the principles of natural justice contemplated under the said proviso, the impugned order is liable to be set aside. The learned Counsel for the petitioner also relied upon the decision of this Court in the case of Goka Bujjamma Vs. Prohibition and Excise Superintendent and Others, which was rendered by a Division Bench following an earlier judgment of this Court in the case of K. Srinivasa Reddy and Another Vs. Superintendent, Prohibition and Excise and Another, . Therefore, the learned Counsel for the petitioner sought to quash the impugned order of suspension.

3. The learned Government Pleader, however, contended that the action of the petitioner was in violation of the provisions of Rule 41 (a) of the A.P. Indian Liquor and Foreign Liquor Rules, 1970 (for short "the Rules"). When once the petitioner contravened the Rules referred to above as well as the conditions of licence, the first respondent has got power to suspend the licence of the petitioner, therefore, there is no merit warranting interference.

4. Heard the learned Counsel for the petitioner and the learned Government Pleader for Prohibition and Excise.

5. The main contention of the petitioner is that the first respondent failed to follow the proviso contained in Section 31(1)(e) of the Act. A perusal of the said proviso clearly shows that no licence or permit shall be cancelled or suspended unless the licence holder is given an opportunity to give his representation against the action proposed. There is no dispute in the present case that, admittedly, the first respondent passed the order without giving any notice and opportunity to the petitioner. A similar issue was decided by a Division Bench of this Court in the case *Goka Bujjamma v. Prohibition and Excise Superintendent, Srikakulam and Ors.* (supra), referred to earlier, wherein it was held that an order of suspension passed without giving notice and opportunity to the licensee, is illegal and liable to be set aside.

6. Under the above circumstances, the impugned order of suspension is set aside. However, it is open to the first respondent to issue show-cause notice to the petitioner and proceed with the enquiry in accordance with law.

7. With the above directions and observations, the writ petition is disposed of. No costs.