

(2011) 11 AP CK 0007

Andhra Pradesh High Court

Case No: Writ Petition No. 29511 of 2011

Toddy Tappers Co-operative
Society

APPELLANT

Vs

The Government of Andhra
Pradesh and six others

RESPONDENT

Date of Decision: Nov. 4, 2011

Acts Referred:

- Andhra Pradesh Excise (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007 - Rule 39, 40
- Constitution of India, 1950 - Article 226

Citation: (2012) 2 ALT 341

Hon'ble Judges: C.V. Nagarjuna Reddy, J

Bench: Single Bench

Advocate: K. Ramakoteswara Rao, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

C.V. Nagarjuna Reddy

1. This Writ Petition is filed for a certiorari to quash Cr. No. 14519/2010/CPE/E3, dated 29-04-2011 of respondent No. 2 to the extent of stipulation of condition of payment of fine of Rs. 2,00,000/- by the petitioner - society for grant of fresh licence following termination of TCS licence.

2. The petitioner is a toddy tappers cooperative society. On the allegation that the petitioner has indulged in adulteration of toddy with a chemical substance which is injurious to health, an enquiry was initiated which has eventually lead to termination of its licence. The said order of termination has become final. Invoking the provisions of first proviso to Rule 39 of the Andhra Pradesh Excise (Grant of Licence

to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007 (for short, "the Rules"), the petitioner has expelled the members who were responsible for adulteration from the Managing Committee and elected a new Managing Committee. The petitioner thereupon approached respondent No. 2 for revival of the licence. Respondent No. 2 has accordingly considered the request of the petitioner and restored the licence by levying an amount of Rs. 2,00,000/- as fine. The petitioner questioned that part of the order by which fine has been imposed on the ground that the sum of Rs. 2,00,000/- is unreasonable and exorbitant.

3. After hearing Sri K. Ramakoteswara Rao and perusing the record, I am of the opinion that the petitioner is not entitled to the discretionary relief from this Court under Article 226 of the Constitution of India. Indubitably, adulteration of toddy will have deleterious affect on the health of its consumers. While the provision reviving the licence in favour of the society which is found indulging in adulteration itself is something extraordinary, imposition of fine is obviously intended to be a deterrent on the society on repeating the heinous act of adulteration in future. The very purpose of stipulation of fine as a condition for revival of licence will be defeated if a lenient view is shown on the quantum of fine. The provision has vested discretion in respondent No. 2 on the quantum of fine. Having regard to the gravity of the offence committed by the petitioner, I am of the opinion that the discretion exercised by respondent No. 2 in deciding on the quantum of penalty cannot be said to be either arbitrary or irrational warranting interference of this Court under Article 226 of the Constitution of India.

4. The submission of the learned counsel for the petitioner that under Rule 40 of the Rules, the respondents can only forfeit the deposit is wholly meritless. Rule 40 envisages a situation where the licensee is visited with the penalty of forfeiture of earnest money deposit wherever licences are cancelled. This provision has no application to a case of this nature where the licence is sought to be revived following the cancellation in terms of proviso to Rule 39. If the petitioner does not want revival of licence, by all means, it can insist that the respondents cannot impose any penalty other than forfeiture of deposit. However, the payment of fine is envisaged as a condition for revival of the terminated licence.

5. For the above mentioned reasons, the writ petition is dismissed.

6. As a sequel to dismissal of the Writ Petition, WPMP.No. 36543 of 2011, filed by the petitioner for interim relief, is also dismissed.