

**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI**

Bench
Sr.No:
[3579]



WRIT APPEAL NO: 112 of 2017

The Government of Andhra Pradesh, rep. by
Principal Secretary and Others

...Appellant(s)

Vs.

M. Ramasubba Reddy, Kadapa District

...Respondent

Reserved for orders on : 18.08.2026

Pronounced on : 18.9.2026

Whether only operative part : Full
of the judgment is pronounced
or whether full judgment is
pronounced

**CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJAN**

DATE : 18th September, 2026

Present :

Advocate for Appellant:

Mr. E Sambasiva Pratap, Additional
Advocate General with Government
Pleader for Prohibition & Excise

Advocate(s) for Respondent(s):

Mr. O. Manohar Reddy, Senior
Counsel with Mr.G. Srinivasulu Reddy

LISA GILL, CJ.

Prayer in this writ appeal was for setting aside, order dated 31.10.2016, passed by learned Single Bench, whereby writ petition filed by respondent/writ petitioner has been allowed. Proportionate licence fee for the period 01.08.2008 to 10.02.2009 has been directed to be refunded to writ petitioner.

2. Brief facts, as pleaded in writ petition, are that respondent/writ petitioner claimed to be a licence holder in Form-2B for running the restaurant and bar in premises as described in writ petition for ten years prior to filing of writ petition. Licence, it is stated, was renewed by officials on 23.06.2008 on deposit of Rs.9,27,000/- towards first installment of licence fee and production of bank guarantee for a sum of Rs. 9,25,000/- towards remaining amount, subject to submission of 'No Objection Certificate' from local authority within a period of seven days, as per circular dated 18.06.2008, issued by Commissioner of Prohibition and Excise.

3. In the meanwhile, writ petition No.16013 of 2008 was filed by one B. Venkata Subba Reddy challenging renewal of licence given to writ petitioner to run his restaurant and bar without production of NOC from local authority. Order dated 28.07.2008 was passed in W.P. No.16013 of 2008 observing that it *prime facie* appeared that official respondents had granted a licence to present writ petitioner in violation of A.P. Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005 (for short, 'Rules of 2005') without production of NOC from Proddatur Municipality for establishment of a bar and restaurant. Vide detailed order, licence dated 23.06.2008, issued in favour of writ petitioner was accordingly suspended.

4. In view of said order dated 28.07.2008 passed in W.P. No.16013 of 2008, licence dated 23.06.2008 issued to writ petitioner was suspended vide order dated 31.07.2008.

5. Subsequently, G.O.Ms.No.122, dated 06.02.2009 was issued by State amending Rules 6(V) and 9A(2) of Rules of 2005, according to which requirement of production of 'no objection certificate' was substituted with 'trade licence' from local authority.

6. Writ petitioner deposited required trade licence fee with local authority and obtained trade licence. Said licence was produced before Excise authorities and on receipt of said trade licence, suspension of writ petitioner's licence was revoked vide order, dated 11.02.2009. Proceedings in W.P. No.16013 of 2008 were closed on 7.12.2010 on the ground that cause in writ petition did not survive further adjudication.

7. Writ petitioner then submitted a representation for refund of proportionate licence fee for the period from 01.08.2008 to 10.02.2009. Writ petitioner's request for refund was rejected vide order dated 29.12.2009 leading to filing of W.P. No.15409 of 2011.

8. Learned Single Bench on considering facts and circumstances concluded that refund had been incorrectly denied to writ petitioner; writ petition was thus allowed and official respondents were directed to refund proportionate licence fee from 01.08.2008 to 10.02.2009. It was observed by learned Single Bench that State Government refused to refund proportionate licence fee on grounds as under:

"11. ..they are (1) request is contrary to sub-sections (1)(e) and (3) of Section 31 of the Act; (2) claim is contrary to condition No.9 of Form-2B licence and (3) claim cannot be considered in view of the law laid down in the case of SRI NARSIMHA WINES AND OTHERS v. PROHIBITION AND

EXCISE SUPERINTENDENT, MEDAK DISTRICT and S.L.V. WINES,
CUDDAPAH DISTRICT v. STATE OF A.P. AND OTHERS."

All these grounds, it is concluded, were not tenable.

9. Aggrieved of the decision dated 31.10.2016, present appeal was filed.

10. This appeal was admitted on 13.07.2018. Enforcement and operation of order dated 31.10.2016 passed by learned Single Bench was suspended for a period of six months and this order was ultimately directed to be extended till further orders on 9.11.2022.

11. Learned Additional Advocate General vehemently argued that direction for refund of amount in question is completely unjustified inasmuch as renewal of licence could be carried out only on production of NOC, trade licence and food licence in terms of rule 6(V) of Rules of 2005.

12. In view of circular dated 18.06.2008, renewal could be carried out subject to an affidavit being submitted by licensee on a stamp paper stating that he has a valid trade licence and NOC issued by competent local authority and would produce same within a period of seven days.

13. An affidavit in this respect had been submitted by writ petitioner and when NOC was not produced, notice dated 10.07.2008 was issued even prior to passing of order dated 28.07.2008. Vide said order dated 28.07.2008 passed in W.P. No.16013 of 2008, licence of writ petitioner was suspended. Writ petitioner did not challenge said suspension. With subsequent change in

rules and compliance being made thereof by writ petitioner, suspension of its licence was revoked.

14. In given facts and circumstances, learned Single Bench has erred in directing refund on ground that there is no justification for the same and order of suspension has been passed merely on account of Court Order dated 28.07.2008 passed in W.P. No.16013 of 2008. Said order dated 28.07.2008, it was submitted, was a detailed order and foundation for passing the same was that required NOC had not been deposited by the writ petitioner. Therefore, conclusion of learned Single Bench that order of suspension was passed on basis of said Court order only and not on account of non-deposit of NOC is clearly paradoxical.

15. It was asserted by learned Additional Advocate General that reliance by learned Single Bench on the judgments in **K.K.V. Veerabhadrrao v. Superintendent of Excise, Visakhapatnam 1981 (1) AWR 346**, **Manchika Srinivas v. Commissioner of Prohibition and Excise 1999 (4) ALT 698** and **Chitra v. State of Kerala (2016) 1 SCC 685** is misplaced.

16. Learned counsel for appellant relies upon decision dated 7.11.2016 of a Division Bench of this Court in Writ Appeal No.1137 of 2016, which, it was stated, has attained finality with S.L.P. No.7076 of 2017 being dismissed on 11.09.2017. It was thus prayed that this appeal be allowed, impugned order dated 31.10.2016, be set aside and writ petition dismissed.

17. Learned counsel for writ petitioner opposed this appeal. While supporting the order dated 31.10.2016, it was submitted that learned Single Bench has correctly allowed writ petition. It is not open to officials to inject reasons at a later stage. Dismissal of writ petition is sought.

18. We have heard learned counsel for parties and have carefully perused the file.

19. It is a matter of record and not denied by writ petitioner that at the time of renewal of licence on 23.06.2008, it was necessary that an NOC for running restaurant and bar from the local authority should be deposited. Such NOC, if not accompanying the application for renewal, could be submitted within a week thereafter with affidavit of licensee being filed to the effect that he had such an NOC. It is further a matter of record that an affidavit was submitted by writ petitioner, which reads as under:

“I, M. RAMA SUBBA REDDY, Son of Subba Reddy, aged about 46 years, resident of H.No.16, Maruthi Paradise Apartment, Y.M.R. Colony, Proddatur, Licence issued by Prohibition and Excise Superintendent, Proddatur in premises bearing No. 20/38 & 20/38-1, Yerraguntla Road, Proddatur during 2007-2008 do hereby declare that I am a holder licence to run a restaurant in the said premises issued by competent local authority last three years and possess N.O.C., Trade Licence and Food Licence issued by the competent authority to run a bar in the said premises. I hereby declare that I am the trade licence holder to run a restaurant during the year 2008-09 and I shall produce the NOC, Trade Licence and Food Licence valid for 2008-2009 within a period 7 days.”

20. It is further not denied that notice dated 10.07.2008 was issued to writ petitioner asking him to produce NOC and trade licence, failing which, action would be initiated as per rules.

21. It is yet again not denied that writ petitioner had submitted an application, dated 11.07.2008, before Superintendent, Department of Prohibition and Excise, Proddatur, seeking a period of one month to submit NOC which statedly was not being issued due to some political pressure. It is stated by writ petitioner therein that in case NOC is not submitted, he would be responsible for cancellation of the licence and further necessary action. Writ petitioner had sought a period of one month for submission of NOC. Notice on his inability to submit the same was issued on 10.07.2008. Before any further action could be taken, order dated 28.07.2008 was passed by the High Court in W.P. No.16013 of 2008 directing suspension of licence of writ petitioner.

22. Admittedly, writ petitioner did not challenge suspension of his licence on 31.07.2008 by Prohibition and Excise Superintendent, Proddatur, nor did he challenge order dated 28.07.2008, passed by the High Court in W.P. No.16013 of 2008.

23. With change of circumstances, with amendment of rules vide G.O.Ms.No.122, dated 06.02.2009, whereby condition of production of NOC was substituted with 'trade licence' from local authority, writ petitioner chose to obtain trade licence from local authority and sought revocation of suspension of his licence. Admittedly, it was in view of changed circumstances, suspension of petitioner's licence was revoked on 11.02.2009.

24. In our considered opinion, writ petitioner is not entitled to refund of amount in question. This is so for the reason that submission of NOC was required to be submitted along with application seeking renewal in terms of applicable rule. Needful was admittedly not done despite an affidavit being submitted by writ petitioner besides submitting application seeking extension for the period for deposit of same. While referring to order dated 28.07.2008 passed in W.P. No.16013 of 2008, licence of writ petitioner was suspended on 31.07.2008 while specifically recording that it is being suspended for contravention of specific provisions of Rule 6(V) of Rules of 2005.

25. Therefore, learned Single Bench has erred in holding that vide order dated 31.07.2008, it is mentioned that bar licence was suspended only as per interim orders of the Court in W.P. No.16013 of 2008. It is yet again reiterated that in order dated 31.07.2008, there is firstly a reference to renewal being granted subject to submission of trade certificate and NOC and that despite a reminder/notice dated 08.07.2008, writ petitioner failed to produce NOC within the stipulated time. Then after a reference to interim order in W.P. No.16013 of 2008, it is stated that licence dated 23.06.2008 "is accordingly suspended for contravention of specific provisions of Rule 6(V) of the Rules, 2005". In the given facts and circumstances, it is apparent that it is writ petitioner himself, who was responsible for turn of events. In case NOC had been deposited within stipulated period or even period till which order dated 31.07.2008 was passed, it would have been able to carry on its trade.

26. It is to be noted at this juncture that such an NOC was never submitted by writ petitioner and it is only with change in rules vide G.O. dated 06.02.2009 that writ petitioner submitted trade certificate and sought revocation of suspension of its licence. In the given facts and circumstances, judgments in **K.K.V. Veerabhadrarao (supra)**, **Manchika Srinivas (supra)** and judgment of Hon'ble the Supreme Court in **Chitra v. State of Kerala (supra)** are not applicable. Decision dated 7.11.2016 of a Division Bench of the common High Court of A.P. in case of **Commissioner, Prohibition and Excise v. T. Narsimha Goud**¹, which has been upheld by Hon'ble the Supreme Court, is clearly relevant and applicable.

27. In the given facts and circumstances, impugned order dated 31.10.2016 is not sustainable, hence, is set aside and writ petition filed by respondent/writ petitioner is dismissed. No other argument was addressed.

28. In view of above, this writ appeal is accordingly allowed. No costs.

Consequently, connected miscellaneous applications, if any, shall stand disposed of.

LISA GILL, CJ

Date:18.9.2026

CHALLA GUNARANJAN, J

akn

Uploaded on : 18.9.2026

Whether the order is Speaking/Reasoned : Yes

Whether the order is Reportable : Yes

¹ Passed in W.A. No.1137 of 2016