

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5519 of 2012

Surendra Sahoo

....

Petitioner

Mr. R. P. Kar, Advocate

-versus-

State of Odisha and Others

....

Opposite Party

Mr. Debakanta Mohanty, AGA

**CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK**

Order No.

**ORDER
20.07.2022**

- 05.
1. The challenge in the petition is to the demand duty raised for shortfall of Minimum Guaranteed Quantity (MGQ) for the excise year 2011-12.
 2. While directing notice to issue on 28th March 2012, this Court passed an interim order restraining the Opposite Parties from taking any coercive action against the Petitioner in respect of renewal of licence. It was further directed that non-lifting of the short supplied MGQ shall not be a bar for considering renewal application of the Petitioner's licence.
 3. The question that arises in the present petition is no longer *res integra*. On 19th April 2018, this Court disposed of a large batch of writ petitions where the issue raised was similar to the one raised in the present petition. In particular, in order dated 19th April 2018 in W.P.(C) No.5181 of 2017 (*Narayan Ch. Sahoo v. State of Odisha*), this Court was of the view that since there was a shortage of supply of country spirit by the Orissa State Beverage Corporation Limited

(OSBCL), the retail licensees may not be met with burden of failure to lift the MGQ. Directions were issued in the said order to the Excise Department to re-examine, on a case-by-case basis, whether any demand should be raised at all given the factual position. Mr. R. P. Kar points out that pursuant to the said order, the District Excise Office, Puri has in respect of three of the licensees i.e. Exclusive Privilege Holders (EPHs) of Chakratirtha, Kumbharpada and Katakpada, waived the excise duty on MGQ.

4. In the present case, we are concerned with two of the shops (Country Spirit Shops) of the Petitioner - one in Khirisahi and another at Maluda - both in Puri District. The facts of present case are similar to the facts pertaining to the aforementioned three shops of EPHs in Puri. Accordingly, the present petition is disposed of on the same terms as the order dated 19th April 2018 of this Court in W.P.(C) No.5181 of 2017. A similar direction is issued to the Excise Department to consider whether the duty on shortfall of MGQ is liable to be waived. The decision be taken and communicated to the Petitioner within a period of four weeks from today, preferably after hearing the Petitioner on a date to be informed to the Petitioner at least one week in advance. The demand notices at Annexures-4 & 5 are accordingly quashed.

5. The writ petition is disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge