

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P. (C) No.1353 of 2022

Pabitra Narayan Mohanty ***Petitioner***

Mr. A. K. Patra, Advocate

-versus-

State of Odisha and others ***Opposite Parties***

Mr. Debakanta Mohanty, AGA

CORAM:
THE CHIEF JUSTICE
JUSTICE S. MISHRA

ORDER
24.01.2022

Order No.

01. 1. This matter is taken up through virtual mode by a separate notice.
2. The prayer in the present writ petition is for refund of application fees collected from the Petitioner pursuant to the sale notice dated 23rd November, 2020, which stood quashed by judgment dated 12th January, 2021 passed by this Court in Writ Petition (Civil) No.32947 of 2020. The operative portion of the said judgment reads as under:

“27. For all the aforementioned reasons, the impugned order dated 23rd November, 2020 cancelling the Petitioner’s license in respect of five IMFL ‘Off’ Shops is hereby quashed. The Intervention Application is not entertained. It is clarified that all consequential actions taken by the Opposite Parties including settling the licences in respect of three IMFL ‘OFF’ Shops in favour of the Interveners cannot be sustained in law. If any money has been collected by the Opposite Parties

from any of the interveners, it shall be forthwith returned by the Opposite Parties to them. The Intervention Application is accordingly disposed of.”

3. Learned counsel for the Petitioner points out that although the present Petitioner was not intervener, he should not be discriminated against only because he did not seek to intervene in the above writ petition. He states that the Petitioner is on the same footing as the interveners in the above writ petition.

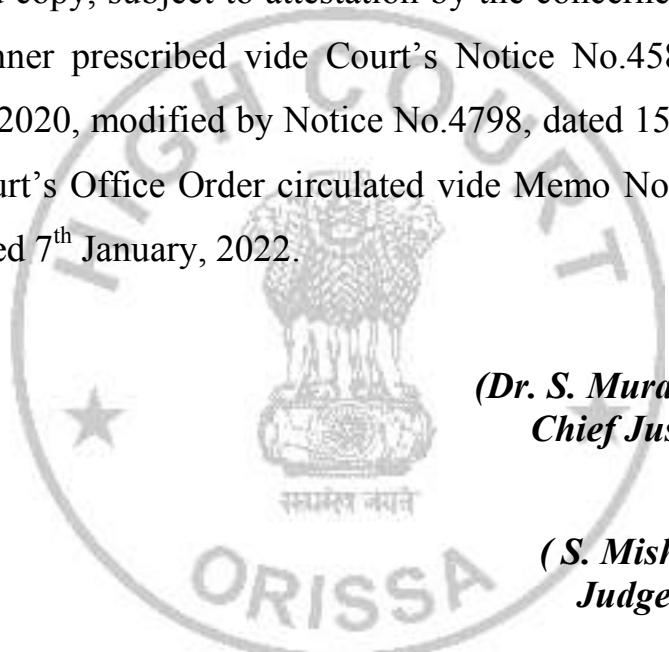
4. Mr. Mohanty, learned Additional Government Advocate appearing for the Opposite Parties refers to the counter affidavit filed therein and in particular to para-3 thereof, which extracts clause No. xi (b) of the sale notice, which states that the application fees collected up to Rs.1,00,000/- is non-refundable. Mr. Mohanty seeks to draw a distinction between the interveners in the above writ petition and the present Petitioner by contending that the interveners had succeeded in the lottery whereas the present Petitioner merely participated in the lottery.

5. In the context of refund having been ordered by this Court in the above judgment dated 12th January, 2021, no distinction can be drawn between the interveners in the said writ petition and the present Petitioner. The fact remains that the sale notice itself stood quashed and, therefore any amount collected pursuant thereto had to be refunded. Merely because the present Petitioner did not choose to be intervene at that stage cannot be a ground to deny him the similar relief as prayed for.

6. Consequently, the Court directs that the amount collected from the present Petitioner as application fees be refunded to him within a period of eight weeks from today.

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

8. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020, modified by Notice No.4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos. No.514 and 515 dated 7th January, 2022.

The seal of the Orissa High Court is a circular emblem. It features the Ashoka Lion Capital in the center, with the motto 'सत्यमेव जयते' (Satyameva Jayate) in Devanagari script below it. The word 'ORISSA' is written in a large, bold, sans-serif font across the bottom of the seal. The words 'HIGH COURT' are written in a smaller, bold, sans-serif font along the top inner edge of the circle. A five-pointed star is positioned on the left side of the seal.

(Dr. S. Muralidhar)
Chief Justice

(S. Mishra)
Judge

M. Panda