

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.4656 of 2022

Puspalata Samal

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Petitioner

Mr. Prafulla Kumar Rath, Advocate

-versus-

State of Odisha and others

Opp. Parties

Mr. Lalatendu Samantaray, AGA

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M.S. RAMAN

ORDER (ORAL)

20.04.2022

Order No.

- 03.** 1. This matter is taken up by virtual/physical mode.
2. The Petitioner is an erstwhile license holder of Pirahat Bazar (Sangram Restaurant) IMFL “ON” Shop. The said shop had to be closed down because of the same falling within the zone of 500 meters from the State Highway, albeit falling within the local area, in compliance of the directions passed by the Hon’ble Supreme Court. Her prayer for shifting of the site from the earlier old site at Plot No.1293/1693 to the new site plot No.919/317 was rejected vide order dated 28.01.2021 passed by the Collector, Bhadrak. The said rejection was based on the report of the Superintendent of Police concerned raising doubts over possible law and order situation.
3. By filing the present writ petition, challenge has been laid to the aforesaid order dated 28.01.2021 with

the further direction for permitting the shifting of the “ON” Shop to the aforesaid new site.

4. On the previous date of hearing, we had requested the learned AGA to seek instructions.

5. At the time of hearing today, learned State Counsel submits that the Collector, Bhadrak vide its memo dated 19.04.2022 addressed to the Office of the Advocate General has intimated that the proposed “ON” Shop can be permitted at the new site (Plot No.917/317) however subject to the relaxation by the State Government in view of the proposed site being 415 meters from the location of a School. The relevant intimation is reproduced here below for ready reference:-

“As the distance from the school premises to the proposed On shop site is only 415 metres, it violates the restrictive provisions under Rule 26(c) of Odisha Excise Rules 2017 which can be relaxed by the state Govt. in special circumstances. The site is located in an isolated area having no human habitat within 500 mtrs radius. Further there is no violation in terms of Hon’ble Supreme Court guideline as regards location of Liquor shop near NH/SH. Moreover there is no licensed Liquor shop within 8 Km. radius. So there is a good demand for liquor in the area. Hence the new site over plot No.919/317 seems to be feasible for opening one IMFL Restaurant ON Shop subject to the relaxation by the State Govt. as stated above.”

6. Learned AGA submits that the competent authority shall take a decision *qua* relaxation within three weeks.

7. In view of the aforesaid stand of the Opposite Parties, learned counsel for the Petitioner does not press this petition at this stage.

8. The writ petition is accordingly disposed of as not pressed. The State shall be bound by the aforesaid stand as conveyed through the learned AGA.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

April, 20th 2022
Cuttack

AKK

