

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) 6024 of 2022

Abinas Jena

..... ***Petitioner***
Mr. Gouri Mohan Rath, Advocate

-versus-

State of Odisha & Others

..... ***Respondent***
Mr. Debakanta Mohanty, AGA

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
31.10.2022

Order No.

06. 1. The prayer in the present writ petition is for direction to the Opposite Parties to waive the demand pertaining to short lifting of the MGQ in respect of the IMFL OFF shop allotted to the Petitioner.
2. It may be mentioned at the outset that Mr. Gouri Mohan Rath, counsel for the Petitioner does not press the prayer for refund of the licensee fee. He states that the Petitioner has in fact paid the license fee for the period in question. He limits the prayer only to short lifting of MGQ.
3. The background facts are that a sale notice inviting the applications for settlement of an exclusive IMFL OFF Shop was issued on 17th March, 2021 by the Collector & District Magistrate, Khordha. Pursuant thereto, on 15th April 2021, the Petitioner became the lottery winner and a license was issued to him to open the shop

on 1st May, 2021. The period was up to 31st March, 2022. The IMFL OFF Shop was to be located at the Golei Market.

4. W.P.(C) No.15795 of 2021 was filed by the previous licensee who could not win the lottery. The said writ petition was disposed of by this Court on 30th April, 2021 with the direction to the authorities to consider the said Petitioner's representation. The Superintendent on that very date directed to the Petitioner not to open the shop.

5. On 19th May, 2021, the Petitioner filed W.P.(C) No.17032 of 2021 challenging the aforementioned order. The said writ petition was disposed of by this Court by order dated 4th June, 2021 setting aside the order dated 30th April, 2021 of the Superintendent and directing him to decide the matter afresh by 2nd August, 2021. According to the Petitioner even while the matter was pending before the Superintendent, the Petitioner made a request for shifting the OFF shop to a location over which there would be no controversy.

6. Although, the Collector issued notice in Form-A on 7th July 2021, for the above purpose, the previous licensee filed W.P.(C) No. 20804 of 2021 by this Court challenging the said notice. In the said writ petition on 2nd August, 2021 this Court passed an order staying the notice for shifting the shop. That stay order continued till 5th January, 2022. As a result, the Petitioner could not operate the IMFL 'OFF' Shop at Golei market for the entire period of 1st May, 2021 to 31st March, 2022. Mr. G.M. Rath, learned counsel for the Petitioner, stated that the license was issued afresh in favour of the Petitioner only on 1st May, 2022 and that too for an OFF Shop in a new location.

7. The factual position therefore is that during the entire period from 1st May, 2021 till 31st March, 2022 the Petitioner could not operate the IMFL OFF Shop at Golei Market. Therefore, there would be no justification for the Respondents to raise any demand for short lifting of MGQ for the aforementioned period against the Petitioner. With the above declaration, the writ petition is disposed of.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge



Laxmikant/Aks