

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.12594 of 2022

Dhirendra Kumar Sahu

.....

Petitioner

Mr. Arun Kumar Patra, Adv.

-Versus-

State of Orissa & Ors

.....

Opp. Parties

Mr. P.K. Muduli, AGA

**CORAM:
JUSTICE S. TALAPATRA
JUSTICE M.S. SAHOO
ORDER
19.10.2022**

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
 2. Heard Mr. A.K. Patra, learned counsel appearing for the petitioner and also Mr. P.K. Muduli, learned Addl. Government Advocate appearing for the Opposite Parties.
 3. The grievance of the petitioner falls within a short compass. The petitioner had approached the licensing authority for refund of the consideration money of Rs.3,92,964/- for the closure period from 01.10.2016 to 07.03.2017 as per recommendation of the Opposite

Party No.3, the Collector of Ganjam vide his letters dated 13.10.2020 and 29.01.2021 (Annexures 09 & 11 respectively) In respect of the petitioner's IMFL Off Shop at Mundamarai as per under Rule 151 of Odisha Excise Rules, 2017.

4. Mr. Patra, learned counsel has drawn our attention towards the communication dated 04.12.2020, Annexure-10 to this petition. The Government asked clarification from the Collector of Excise, Ganjam, how the case of the petitioner is relatable to the direction of the Hon'ble Supreme Court dated 15.12.2016 delivered in Civil Appeal Nos.12164-12166 of 2016. In response to the communication dated 04.12.2020 (Annexure 10), the Collector of Excise, Ganjam has made the clarification by his communication dated 29.01.2021 Annexure-11 to the writ petition. The Collector has categorically recommended that refund or adjustment of the monthly consideration money amounting to Rs.3,92,964/- for Mundamarei IMFL Off Shop and Rs.3,37,172/- for Golapali IMFL OFF Shop as the shops were closed in view of the Judgment of the Hon'ble High Court of Orissa and Hon'ble Supreme Court of India at an early date under Rule 151 of Odisha Excise Rules, 2017.

5. The petitioner is concerned with Golapali IMFL OFF Shop as he is the licensee of that shop. The grievance of the petitioner precisely is that even though such recommendation was made on 29.01.2021, no such decision has been taken by the Government on the said recommendation as yet.

6. Mr. P.K. Muduli, learned Addl. Government Advocate has fairly submitted that the time frame if by this court for decision on the said recommendation, that will be observed by the Government. On such stipulation this writ petition may be disposed of.

7. Having taken cognizance of the said statement as made by Mr. P.K. Muduli, learned Addl. Government Advocate this writ petition stands disposed, of with the following direction:

The Government shall consider the recommendation of Collector of Excise of Ganjam, as reflected in the communication dated 29.01.2021 (Annexure-11 to this writ petition) within a period of one month from today.

The decision shall be communicated to the petitioner at once.

8. There shall be no order as to costs.

9. A free copy of this order be supplied to Mr. P.K. Muduli, learned Addl. Government Advocate forthwith.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge