

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17729 of 2022

(Through Hybrid mode)

Rukmani Barik

....

Petitioner

Mr. G. N. Mishra, Advocate
Mr. Rabi Narayan Panda, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. A. K. Sharma, AGA

CORAM: JUSTICE ARINDAM SINHA

ORDER

20.12.2022

Order No.

05.

1. Mr. Mishra, learned advocate appears on behalf of petitioner and draws attention to order dated 1st December, 2022.
2. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State. He hands up brief of documents enclosed in letter dated 5th December, 2022 by the Block Development Officer (BDO). He submits, in fairness, there was no inquiry made prior to 21st April, 2022.
3. Paragraphs 4 to 6 of order dated 1st December, 2022 are reproduced below.

“4. What appears from materials on record is that the proposal to tag was made on 21st April, 2022 without there having had been refusal to renew the licence. Petitioner obtained direction in her earlier writ petition, which

resulted in impugned order dated 4th June, 2022, whereby the authority asserted a position, already taken prior thereto. A report was relied upon. It does not appear from impugned order that the inquiry was made with participation of petitioner. In any event, letter dated 21st April, 2022 written by the Block Development Officer to the Sub-Collector says, inter alia, petitioner was not allowed APS licence renewal due to complaints of misappropriation against them but, as aforesaid, rejection of application for renewal appears to have come thereafter on 4th June, 2022.

5. State is to produce refusal to renew APS licence, inter alia, in respect of petitioner's WSHG as made prior to 21st April, 2022. It is noticed that there is no reference to earlier refusal, in impugned order dated 4th June, 2022. It is made clear, unless such order is shown to have been existing, both the proposal to tag and the refusal to renew are likely to be set aside.

6. State may produce the documents in Court. In the meantime, impugned proposal dated 21st April, 2022 and order dated 4th June, 2022 shall remain stayed till next date."

(emphasis supplied)

It appears, the fact is there was no inquiry prior to 21st April, 2022. Yet decision was taken to reject petitioner's application for renewal.

4. Inquiry was made post 21st April, 2022.
5. The proposal to tag and refusal to renew by annexures 7 and 11 in the petition are set aside and quashed.

6. The instructions are kept on record.
7. The writ petition is allowed and disposed of.

(Arindam Sinha)
Judge

Prasant

