

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.19059 of 2022

Subhasish Sahoo

....

Petitioner

Mr. Arun Kumar Patra, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. L. Samantray, AGA

**CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN**

**ORDER
13.12.2022**

Order No.

03.

1. Aggrieved by the cancellation of his IMFL OFF shop license at Chitrada by the impugned letter dated 19th July, 2022 issued by the Under Secretary to Government, Excise Department, Government of Odisha, the Petitioner has preferred the present writ petition.

2. Pursuant to the notice issued on 10th August, 2022 in the present writ petition, a reply has been filed by the Opposite Parties. It is stated *inter alia* that under Section 47(4) of the Odisha Excise Act, 2008 (OE Act), the Petitioner was issued with show-cause notice first by the Collector, Mayurbhanj and then by the Excise Commissioner, Odisha. Thereafter, the Government in the Excise Department was pleased to cancel the IMFL OFF shop license by the impugned order.

3. When specifically asked how when the Commissioner issued notice, the Government could have passed the order, the reply given by the learned AGA for the State Government is that the order passed by the Commissioner was forwarded to the Government and then issued with its approval.

4. With the show-cause notice having been issued by the Commissioner, who did not have the power to issue the license, with the hearing having been given by the Commissioner, it is inexplicable that the State Government, and not the Commissioner, passed the impugned order. Nevertheless, as pointed out by learned counsel for the Petitioner, the power to cancel the license is only with the Government and not to the Commissioner. In the present case, show-cause notice prior to cancellation of such license ought to have, therefore been issued, if at all, by the Government.

5. Since there is obvious non-compliance with the principles of natural justice as far as the Government cancelling the Petitioner's license is concerned, this Court has no hesitation in setting aside the impugned order dated 19th July, 2022.

6. The sealing of the IMFL OFF shop will therefore now get lifted. The Court notes that according to the Petitioner he has already deposited four months advance license fees.

7. As a result of the today's order, the Petitioner should be permitted to operate his IMFL OFF shop forthwith.

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

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

M. Panda

