

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20254 of 2022

Bhubaneswar Food City Pvt. Ltd. ***Petitioner***

Mr. Arun Kumar Patra, Advocate

-versus-

State of Odisha and Others ... ***Opposite Parties***

Mr. Debakanta Mohanty, Addl. Govt. Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE M.S. RAMAN

Order No.

ORDER

08.12.2022

03. 1. The Petitioner's application for grant of a new IMFL (R) ON Shop licence under the name and style of 'Bhubaneswar Food City Private Limited' has been rejected 'due to violation of the restrictive provision under Rule 26(e) of the Odisha Excise Rules, 2017'.
2. In the counter affidavit, it is stated that since the proposed location within 40 meters of the market building, it attracted the prohibition under Rule 26(1)(e) of the OE Rules.
3. Learned counsel for the Petitioner points out that the proposed location is within a mall and in that very mall (BMC Keshari Mall) is already another restaurant by the name and style of 'Delhi Darbar' which is a restaurant having an ON Shop and for which licence has been issued.
4. Rule 26(1)(e) restricts the opening of an ON Shop only where it is daily market or *haat* whereas the proposed location is neither.

5. In that view of the matter, while setting aside the impugned order of rejection dated 29th July 2022, the Court directs the Secretary to the Government, Excise Department to once again consider the Petitioner's application for licence for an IMFL (R) ON Shop in the above location. The fresh order be communicated to the Petitioner not later than 16th January, 2023.

6. The writ petition is disposed of in the above terms. An urgent certified copy of this order be issued as per rules.

S.K. Jena/Secy.



(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge