

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.20484 of 2022

Dhaneswar Mohapatra

....

Petitioner

Mr. Prafula Kumar Rath, Advocate

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. Debakanta Mohapatra, AGA

Mr. Arun Kumar Patra, Advocate for O.P. No.5

CORAM:

THE CHIEF JUSTICE

JUSTICE M. S. RAMAN

ORDER

22.12.2022

Order No.

02. 1. The challenge in the present petition is to order dated 25th July, 2022 passed by the Excise Commissioner, Odisha allowing the appeal filed by the Opposite Party No.5 against an order dated 16th June, 2022 passed by the Collector, Bhadrak in Misc. Case No. 13 of 2022.
2. It is seen from the order dated 16th June, 2022 that the plea of the present Petitioner against the Opposite Party No.5 regarding the IMFL OFF Shop not having been opened for almost eleven months after the license has been issued, was found to be correct and, accordingly, the Collector, Bhadrak by the said order recommended cancellation of the license issued in favour of the Opposite Party No.5.
3. Aggrieved by the above order, the Opposite Party No.5 filed an appeal before the Excise Commissioner, Odisha. From the impugned

order dated 25th July, 2022, it is seen that the Opposite Party No.5 impleaded the State but not the present Petitioner.

4. The above facts are unable to disputed either by the learned counsel appearing for the Opposite Party No.5 or the State. It is plain that since the order dated 16th June, 2022 of the Collector, Bhadrak was passed at the instance of the present Petitioner, any challenge to that order in an appeal would have to be only by impleading the present Petitioner as a party to the said appeal.

5. On the above short ground, the impugned order dated 25th July, 2022 passed by the Excise Commissioner is set aside and the Excise Appeal Case No.27 of 2022 is restored to the file of the Excise Commissioner, Odisha to be heard afresh by impleading the present Petitioner as an Opposite Party/Respondent in the said appeal. The said appeal will now be listed before the Excise Commissioner on 16th January, 2023 for further orders. The Excise Commissioner will proceed in the appeal after ensuring that the present Petitioner is impleaded as a party and is heard. It will be open for the parties to the appeal before the Excise Commissioner to urge all the contentions available to them in accordance with law.

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

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge