

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 24750 of 2022

Sri Dharmaraj Dhir

.....

Petitioner

Mr. P.K. Rath, Advocate

-versus-

State of Odisha and Ors.

.....

Opposite Parties

Mr. D. Nayak, AGA

CORAM:

JUSTICE S. TALAPATRA

JUSTICE M.S. SAHOO

ORDER

18.10.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard Mr. P.K. Rath, learned counsel appearing for the Petitioner and Mr. D. Nayak, learned Additional Government Advocate appearing for the Opposite Parties.
3. A short question falls for consideration in this writ petition. The Petitioner has admitted that the location he has offered for running a IMFL Shop falls within a locality which is liable to be termed within the restricted area in terms of Rule 26 of the Odisha Excise Rules, 2017. He has submitted a representation to the competent authority with all necessary document for relaxation. A report had been filed by now by the Inspector of Excise, Jajpur, precisely on 28.10.2021. Based on the said report, the Commissioner of Excise has forwarded the prayer of the Petitioner for consideration by the Government whether the said restriction can be waived in the case of the Petitioner. In his report, the Collector, Jajpur has observed that in response to the public notice issued for the

year 2023, the Petitioner was the successful bidder. But the location he has offered has been challenged by the some person by filing objection. It has been also noted that on making an inquiry through the Inspector of Excise, Jajpur it has been found that the most of the objections were forged. Thereafter, the Commissioner of Excise took up the matter for hearing and as stated by Mr. Rath, learned counsel, his observations have been placed to the Government for taking the decision. Mr. Rath, learned counsel has also submitted a decision of the Government almost in the similar context where the Government had relaxed the restriction. A copy of the said order, as reflected in the communication dated 18.02.2020, has been placed before us.

4. Mr. D. Nayak, learned Additional Government Advocate has fairly submitted that so far as the consideration according to law is concerned, the Government will have no inhibition to consider the proposal that has been sent by the Commissioner of Excise for purpose of relaxing the restriction as enumerated in Rule 26 of the Odisha Excise Rules, 2017 in the case of the Petitioner.

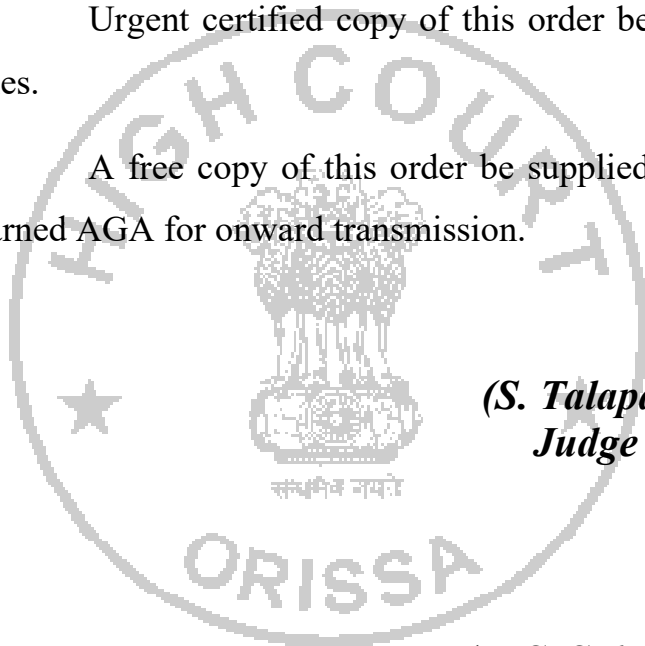
5. Having taken cognisance of the statement made by Mr. Nayak, learned Additional Government Advocate, we dispose of this writ petition directing the Government in the Excise Department, Government of Odisha to take decision on the reference made by the Commissioner of Excise as regards waiving of the restriction under Rule 26 of the Odisha Excise Rule, 2017 so far as the case of the Petitioner is concerned.

Such consideration shall be made within a period of six weeks from today. The Petitioner is given liberty to place the communication dated 18.02.2020 as referred to us by an additional representation to the Secretary to the Excise Department, Government of Odisha who, in turn, shall place the same before the Government took a decision on the prayer of the Petitioner for relaxation.

6. There shall be no order as to cost.

7. Urgent certified copy of this order be granted as per rules.

8. A free copy of this order be supplied to Mr. Nayak, learned AGA for onward transmission.



(S. Talapatra)
Judge

(M.S. Sahoo)
Judge