

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 25257 of 2022

A.V.Mohan Rao

..... Petitioner
Mr.P.K.Satpathy, Advocate

-versus-

State of Odisha of others

..... Opposite Parties
Mr.B.P.Tripathy, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

03.11.2022

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner and learned Additional Government Advocate.
 3. The present writ application has been filed by the Petitioner praying for quashing of the order dated 22.09.2022 under Annexue-1 in respect of Sl.No.2 and further direction to the Opposite Parties to re-verify the Aadhaar Authentication Performance in respect of the Petitioner. Further he has also challenged the cancellation order dated 07.10.2022 issued by the Sub-Collector, Berhampur under Annexure-8
 4. Learned counsel for the Petitioner submits that before cancellation order was passed, the Petitioner was not provided with an opportunity of hearing. He further submits that pursuant to a general letter issued by the Collector of the District, licence of many

dealers have been cancelled on the ground that they were not able to fulfill the Aadhaar Authentication Performance yardstick. Accordingly, it is submitted that the action of the Sub-Collector in cancelling the licence of the Petitioner is illegal and arbitrary and not in consonance with the PDS Control Order.

5. Learned Additional Government Advocate on the other hand submits that in view of Clause 19 of the PDS Control Order 2016 an appeal has been provided against the order cancelling the PDS licence. Therefore, the Petitioner should have approached the appellate authority instead of rushing to the Court.

6. Learned counsel for the Petitioner further submits that the licence has been cancelled on the letter issued by the Collector and the Collector being the appellate authority, he submits that the alternative remedy of appeal under Clause 19 is meaningless. Therefore, instead of preferring an appeal, the Petitioner was constrained to approach this Court. However, does not dispute that Clause 19 provides for an appeal.

7. Considering the peculiar facts and circumstances of the case, this Court deems it proper to dispose of the writ application by directing the Petitioner to prefer an appeal before the Commissioner-cum-Principal Secretary to Government, Food Supplies and Consumers Welfare Department, Opposite Party No.1. In the event an appeal is presented by the Petitioner within a period of two weeks from today, the same shall be disposed of within a period of six weeks from the date of presentation of the appeal. Further, it is directed that the appeal shall be considered and disposed of strictly in accordance with law and PDS Control Order, 2016 after providing an opportunity of hearing to the Petitioner. The decision so taken shall be communicated to the Petitioner within 10 days thereafter.

8. It is open for the Petitioner to move an interim application before the appellate authority. If such an interim application is filed, the same shall be considered in accordance with law.

9. With the aforesaid observation, the writ application stands disposed of.

10. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra)
Judge

