

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27461 of 2022

Nimai Chandra Majhi

....

Petitioner

Mr. Gopinath Mishra, Advocate

-versus-

State of Odisha & 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 Petitioners and learned Additional Government Advocate.

4. The Petitioner has filed the present writ application with the following prayer:

“ The Petitioner, therefore, prays that this Hon’ble Court may graciously be pleased to issue Rule Nisi, calling upon the Opp.Parties, to show cause as to why a writ of mandamus or any other appropriate writ or writs shall not be issued;

a) To quash the order of cancellation of FPS Dealer licence issued vide Order No.307 dated 13.10.2022 by the Sub-Collector, Balasore under Annexure-7.

b) If the Opp.Parties fail to show cause or show insufficient cause, to make the said Rule absolute.

c) And to pass such other order/orders, writ/writs as would afford complete relief to the Petitioner.

4. It is submitted by the learned counsel for the Petitioner that although the Petitioner has achieved 99% of utilization of Aadhaar

authentication in the concerned year. However, the authorities have illegally cancelled the licence of the Petitioner on a misconception that the Petitioner has not achieved the standard fixed i.e. 22%. It is further contended by the learned counsel for the Petitioner that the grounds taken for cancellation of PDS dealership is completely untenable and unsustainable in view of the own admission of the authority that the Petitioner has achieved up to 99% in the utilization of Aadhaar authentication. There appears to be inconsistency in the stand taken in the cancellation order and the information provided to the Petitioner under the RTI Act. In such view of the matter the learned counsel for the Petitioner submits that the cancellation order be quashed and the Petitioner be allowed to review distribution of PDS commodities in the locality.

5. On the other hand, learned Additional Government Advocate submits that in view of Clause-19 of the PDS Control Order a remedy in the shape of an appeal has been provided. Therefore the Petitioner should first approach the authority i.e. Collector, Balasore, who is the appellate authority by filing an appeal.

6. Having heard learned counsel for the parties and further keeping in view the fact that an alternative remedy is available, the Petitioner should have approached the Collector, Balasore first before approaching this Court. In the event any appeal is filed by the Petitioner within two weeks from today the same shall be considered and disposed of within a period of four weeks from the date of presentation of appeal. Further, while deciding the appeal, the Collector shall provide an opportunity of hearing to the Petitioner in the event the same is asked for by the Petitioner. Further, it is made clear that in the event the Collector comes to a conclusion that the Petitioner has achieved 99% as has been informed to him under the

RTI Act then the licence of the Petitioner shall be restored immediately.

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

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

RKS

(A.K. Mohapatra)
Judge

