

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 33648 of 2022

Sarojini Malik

....

Petitioner

M/s. B. Mohanty and associates, Advocates

-versus-

State of Odisha and others

.... ***Opposite Parties***

Mr. Debakanta Mohanty,

Additional Government Advocate for State

CORAM:

THE CHIEF JUSTICE

JUSTICE M.S. RAMAN

ORDER

15.12.2022

Order No.

01.

1. The challenge in the present petition is to a Show-cause Notice (SCN) dated 8th August, 2022 followed by an order dated 16th September 2022, both by the Collector, Ganjam.

2. By the impugned order, the Collector, Ganjam has, while rejecting the explanation offered by the Petitioner pursuant to the notice issued, placed before the Government in the Excise Department a proposal for cancellation of the license in respect of the Balisira OS Main Shop issued to the Petitioner.

3. Learned counsel for the Petitioner urges that both the SCN as well as the impugned order are without jurisdiction since, according to the Petitioner, the authority that is empowered to cancel a license under Section 47 of the Odisha Excise Act, 2008 can only be the State Government and not the Collector. Yet, even according to counsel for the Petitioner, the impugned order is not a final order

since it is only in the form of a proposal to the State Government for cancellation of the Petitioner's license.

4. Since even according to the Petitioner there is one more step in the form of Commissioner in the Excise Department having to act on the proposal of the Collector, the Court issues the following directions:

i. If not already passed, the Excise Commissioner will, on the basis of the impugned order dated 16th September, 2022 of the Collector, Ganjam, pass a final order after hearing the Petitioner on a date to be informed to the Petitioner at least one week in advance;

ii. It will be open to the Petitioner while appearing before the Commissioner to urge all the pleas raised in the present petition including the lack of jurisdiction of the Collector to issue the impugned SCN or pass the impugned order;

iii. The Court clarifies that it has not expressed any view on any of the contentions;

5. The Petitioner will now appear before the Commissioner along with a downloaded copy of this order on 4th January 2023. The Commissioner will pass the final order within a period of four weeks thereafter.

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

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge