IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.32279 of 2026

CNR No. ODHC010767902026

Satya Prakash Mahana …. **Petitioner**

Represented by Adv.–
Mr. Arun Kumar Patra, Advocate

-Versus-

State of Odisha and others …. **Opposite Parties**

Represented by Adv.–
Mr. Kailash Chandra Kar, Govt. Advocate

CORAM:
HON' BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE CHITTARANJAN DASH

ORDER

Order No. **30.10.2026**

01. 1. The instant writ petition has been filed by the petitioner challenging the letter dated 17.09.2026 (Annexure-9) issued by the opposite party No.4-Superintendent of Excise, Mayurbhanj, whereby the petitioner has been directed to deposit license fees and duty on alleged short drawn MGQ of BL for the year 2025-26 and non-refundable annual application fee, annual Label Registration fee and license fee from April to September, 2026 for renewal of Mahuli Beer Parlour ON Shop for the year 2026-27 and to submit Bank Guarantee (BG) although the said Beer Parlour ON Shop was closed vide office order dated 20.08.2025 and not in operation and without renewing the license for the year 2026-27.

2. The present case is a classical example of colourable exercise of powers by an administrative authority whereby and whereunder the

Right to Trade and Business enshrined under Article 19(1)(g) of the Constitution of India is blatantly infringed.

3. We are conscious that even the freedom of Right to Trade and Business is one of the facets of the fundamental right but the same is always subject to reasonable restrictions. The restriction in this case can be envisaged that the Right to Trade in liquor is always put to certain restrictions and without the permission and license having granted no citizen of the country would be permitted to do the said business.

4. In the instant case, the petitioner was permitted to operate a Beer Parlour ON shop upon issuance of license in his favour at a designated place and later on was permitted to shift the same to an another plot, i.e., Plot No.01/1844/1911, Khata No.255/322, Mouza-Kostha, P.S. Suliapada, Dist-Mayurbhanj. The said site was taken by the petitioner on rent from the person having a certain possession thereof. It is not in dispute that the said agreement has not been terminated by the Land Lord. However, the Superintendent of Excise, Mayurbhanj issued a letter for closure of the said shop on the ground that the land over which the said liquor parlour is being run by the petitioner belong to the Government. There is no iota of piece of evidence forthcoming except that on the recommendation of the Collector, the said parlour has been closed that a proceeding is initiated against the Land Lord of the person who is admittedly in possession of the said plot and for recovery of the possession nor there is any proceeding initiated under the Odisha Survey and Settlement Act, 1958. The petitioner has submitted the extract of the Record of Rights (RoR) pertaining to the said plot, which reveals that the same is recorded in Khatian No.172 in the name of the Land Lord from whom, he got the possession as a tenant thereof. The

status of the Land Lord is shown to be a possession and so far as the remark column is concerned, there is no noting put therein. We find that when there is any special fact found to exist, it is an ardent duty of an authority to make such statement in the remark column, which would be evident from the said extract of the RoR concerning the Plot No.32.

5. It is preposterous to suggest that the authority would declare a property to be a Government property without taking recourse to law as permissible in the Act nor the Excise Department can perceive that the property belong to the Government in contravention to the entries made in the RoR. It is no gain saying that the entry made in the RoR has a presumptive value of its correctness though does not create any title nor extinguish the title in respect of the immovable property. The RoR still stands in the name of the Land Lord from whom the petitioner has taken the property on rent and, therefore, the action of the authority is completely in derogation therewith and cannot be allowed to stand for a moment. The impugned letter dated 17.09.2026 (Annexure-9) is hereby quashed and the petitioner is permitted to run his shop.

6. The writ petition is, accordingly, disposed of.

(Harish Tandon)
Chief Justice

(Chittaranjan Dash)
Judge

S.K. Jena/Sr. Secy.

Signature Not Verified
Digitally Signed
Signed by: SANJAY KUMAR JENA
Designation: Asst. Registrar-cum-Sr. Secretary
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 02-Nov-2026 10:35:08