IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.36943 of 2026

CNR No. ODHC010870412026

Basanta Giri .... ***Petitioner***

Mr. Sukanta Kumar Dalai, Advocate

-versus-

State of Odisha and others .... ***Opp. Parties***

Mrs. Usharani Padhi, ASC

CORAM:
JUSTICE MRUGANKA SEKHAR SAHOO

ORDER
09.11.2026
Hybrid Mode

Order No.

01. **1.** The petitioner before this Court is a licensee of PDS shop commodity rice, wheat and Skoil issued by the office of the Sub-Collector through the Additional Civil Supply Officer, (Sadar), Bhadrak for village-Bidutprava, Dosinga Grama Panchayat under Chandbali Block in the district of Bhadrak. The license was valid up to 30.09.2026. Copy of the license issued to the petitioner has been annexed to the writ application marked as Annexure-1.

The license was extended by order dated 29.09.2026 issued by the Government of Odisha, Food Supplies & Consumer Welfare Department extending it up to 30.09.2027.

2. The challenge before this Court is to the order dated 22.10.2026 (Annexure-4) on the grounds that the authorities have violated the principle of natural justice, as they have not disclosed the relied upon material to the petitioner before passing the impugned order.

It is submitted that such error is apparent from the order passed by the authority.

3. Now Order 19 of the Odisha Public Distribution System (Control) Order, 2016 provides for appeal against such order reproduced herein:

> *"**19. Appeal**.- (1) Any person aggrieved by an order of the Licensing Authority refusing to grant or renew or reissue a license or suspending or cancelling a license or forfeiting the security deposit or withholding the allocation of quota under the provisions of this order may prefer an appeal before the Appellate Authority within thirty days of the date of receipt of the order.*
>
> *(2) The memorandum of appeal should be accompanied by a copy of the license of the appellant and a copy of the order against which appeal has been preferred.*
>
> *(3) Any appeal preferred after the expiry of the aforesaid period may be summarily rejected by the Appellate Authority.*
>
> *(4) No such appeal shall be disposed of unless the aggrieved person has been given a reasonable opportunity of being heard in person.*
>
> *(5) Pending disposal of an appeal, the Appellate Authority may direct that the order of the Licensing Authority, against which the appeal is preferred, shall not take effect until the appeal is disposed of."*

4. The learned counsel for the petitioner relies upon the decision of the Hon'ble Apex Court in ***Assistant Commissioner of State Tax and others v. Commercial Steel Limited (2022) 16 SCC 447*** to support the challenge before this Court instead of approaching the appellate authority as provided in the statute. The relied upon paragraph-10 is reproduced herein:

> *"10. The respondent had a statutory remedy under Section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternative remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is:*
>
> *(i) a breach of fundamental rights;*
>
> *(ii) a violation of the principles of natural justice;*
>
> *(iii) an excess of jurisdiction; or*
>
> *(iv) a challenge to the vires of the statute or delegated legislation."*

5. The learned Additional Standing Counsel for the State refers to the statutory provision that provides the appeal.

6. This Court also takes note of the paragraph-11 of the decision of the Hon'ble Supreme Court which is reproduced herein:

> *"11. In the present case, none of the above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it*

was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under Section 107, this Court makes no observation on the merits of the case of the respondent"

7. In view of the statutory provision as provided in the Order 19 to approach the appellate authority against order of Licensing Authority to grant or renew or issue of license, against order of suspension or cancellation of license, forfeiting of security deposit, withholding allocation of quota, granting thirty days' time to the person aggrieved, the petitioner shall move the appellate authority within five working days from today making an appeal in the proper format.

The appeal shall be considered in accordance with law for redressal of the grievance raised by the petitioner.

8. Since the writ application was filed on 02.11.2026 against the impugned order dated 22.10.2026, the authority shall not detain itself on ground of any delay in approaching the authority. The authority shall consider the matter on merits and take a decision within a period of three weeks from the date the petitioner approaches.

9. Further, the petitioner shall have liberty to make an application under Order 19 (5) of Odisha Public Distribution System (Control) Order, 2016 for interim

relief as it is submitted by the learned counsel for the petitioner that stocks are lying with the petitioner which are required to be distributed amongst the beneficiary of the PDS. The authority shall consider the interim application expeditiously.

10. With the above observation, the writ petition is disposed of.

11. The parties shall have liberty to act upon the copy of the order obtained from the official website of this Court.

Urgent certified copy of this order shall be issued as per Rules.

(Mruganka Sekhar Sahoo)
Judge

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Signature Not Verified
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Signed by: GAGAN BIHARI SAMAL
Reason: Authentication
Location: ohc
Date: 09-Nov-2026 21:00:13