

(2023) 04 OHC CK 0039

In the Orissa High Court

Case No : Writ Petition (C) No.10059 Of 2023 And I.A. No.4656 Of 2023

Dinesh Kumar Naidu

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 04-04-2023

Acts Referred:

Citation : (2023) 04 OHC CK 0039

Hon'ble Judges : Dr. B.R. Sarangi, J;M.S. Raman, J

Bench : Division Bench

Advocate : B.P. Das, L. Samantaray

Final Decision : Disposed Of

Judgement

1. This matter is taken up through hybrid mode.
2. Heard Mr. B.P. Das, learned counsel for the petitioner and Mr. L. Samantray, learned Addl. Government Advocate appearing for the State-opposite parties.
3. The Petitioner has filed this writ petition with the following prayer:-
"i) quash the impugned Order No.2238 dtd.18.03.2023 under Annexure-5 & Order No.23554 dtd.24.03.2023 under Annexure-6 passed by the State, OP No.1.
ii) issue a writ of mandamus in directing to the, OP No.1, Principal Secretary, Excise Department to take a decision afresh for carry forward of short fall MGQ of IMFL of the Excise Year 2022.23 to Excise Year 2023-24 without insisting payment of Excise Duty as proposed under Annexure-6."
4. Mr. B.P. Das, learned counsel for the petitioner contended that as per the guidelines issued by the Excise Department on 26.02.2021, the exclusive privilege once granted shall continue for a period of five years, including the year of grant, unless otherwise directed by the State Government. It is contended that the petitioner has been granted with exclusive privilege for a period of five years subject to renewal in each year and, as such, though for the year 2021 he

had been granted with exclusive privilege, but he could not operate the same in full swing because of pandemic situation. Consequentially, he could not lift the MGQ permissible during that period, as there is lockdown and shutdown imposed by the State Government. It is contended that the petitioner is willing to lift the MGQ, as has been settled in his favour if two to three months time is granted by the authority. But the authority has decided that the carry forward of MGQ to the next financial year will not be allowed in the current financial year as it is not a matter of right of the licensees but a mere relaxation. As such, if the petitioner does not lift the MGQ within the time specified, it will affect the license issued in his favour. Therefore, the petitioner has approached this Court by filing the present writ petition.

5. Mr. L. Samantray, learned Addl. Government Advocate appearing for the State-opposite parties seeks time to obtain instructions as to why three to four months time will not be granted for lifting of MGQ, as was granted for the year 2021-22.

6. Call this matter connecting with W.P.(C) No.9166 of 2023. In the meantime, instructions shall be obtained.

7. As an interim measure, it is directed that no coercive action shall be taken against the petitioner till 05.04.2023.

Issue urgent certified copy as per rules.

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