
(2005) 10 OHC CK 0014
In the Orissa High Court
Case No : Writ Petition (C) No. 12957 of 2005

Kanhu Charan Mishra

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 24-10-2005

Acts Referred:

Citation : (2005) 2 OLR 712

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : Mahendra Kumar Das, Sidheswar Mallik, Laxmidhar Dash, Minarani Das and Barija Das, for the Appellant; Additional Government Advocate, for the Respondent

Judgement

A.S. Naidu, J.—The order dated 17.8.2005 passed by the Sub-Collector, Bhadrak, suspending the supply of monthly quota of the petitioner, who is a retailer of Battitanki under Chandbali Block, is assailed in this writ application.

2. Mr. Das, learned counsel for the petitioner submits that it is mandatory under the provision of Clause-10 of the Orissa Public Distribution System (Control) Order, 2002, to issue a show cause notice before an order of suspension is passed. The provision of Clause-10 of the Orissa Public Distribution System (Control) Order, 2002 reads as follows :-

10. Contravention of conditions of licence-No holder of a licence issued under this order or his agent or servant or any other person acting on his behalf shall contravene any of the terms of conditions of the licence and if any such person contravenes any of the said terms and conditions, without prejudice to any other action that may be taken against him, his licence may be cancelled or suspended by order in writing of the Licensing Authority.

Provided that no order shall be made under this clause unless the licensee has been given a reasonable opportunity of stating his case against the proposed cancellation or suspension.

3. The said provision clearly provides that before passing any order of suspension an opportunity shall be given to the aggrieved party of stating his case against the proposed suspension order. The said provision has not been complied with. Therefore, this Court has no hesitation to set aside the order dated 17.8.2005 and direct the petitioner to submit his show cause as directed in the show cause notice dated 17.8.2005 in Annexure-3. The authority is also directed to give an opportunity to the petitioner as stipulated under the provision of Orissa Public Distribution System (Control) Order, 2002, and thereafter pass order strictly in consonance with law.

4. Till disposal of the reply to the show cause notice of the petitioner status quo as on date with regard to the distribution of the commodities shall be maintained.

5. With the aforesaid observation and direction, the writ application is accordingly disposed of.