
(2005) 03 OHC CK 0035
In the Orissa High Court
Case No : Writ Petition (C) No. 4124 of 2005

Prafulla Kumar Sahoo and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 31-03-2005

Acts Referred:

Citation : (2005) 1 OLR 532

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

Bench : Single Bench

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

Judgement

A.S. Naidu, J.—Heard learned counsel for the petitioners and learned Addl. Government Advocate.

2. The submission of the petitioners in this writ petition is that they were duly appointed as dealers under the Orissa Public Distribution System (Control) Order, 2002 (for short "2002 Order"). It is asserted that from the date of appointment they are discharging their duties strictly in consonance with the Rules and as per the instruction issued. Relying upon Clause 4 of the 2002 Order, learned counsel for the petitioners submitted that though the petitioners had applied for renewal of their licence the authorities neither accepted the renewal application nor have passed any orders. According to the petitioners in consonance with the aforesaid 2002 Order, it is incumbent upon the authorities to accept the renewal application, consider the same in consonance with the provisions of the said order and take a decision. Not discharging such statutory duties creates prejudice to the petitioners.

3. To appreciate the submission made by the petitioners, it would be prudent to refer to Clause 4 of the Orissa P.D.S. (Control) Order 2002 which is quoted hereinbelow;

"4. Issue of Licence - (1) Every application for a licence or for renewal thereof or for duplicate copy thereof shall be made to the licensing authority in Form "A".

(2) Every licence issued, re-issued or renewed under this order shall be in Form "B" and shall specify the commodity/ commodities which the licensee shall deal and the place of business where the licensee shall act as a dealer.

(3) Every application for a renewal shall be made along with the original copy of licence within thirty days before the date of expiry of such licence.

(4) Every licence may be renewed if the application for renewal is received within the specified period and the performance of the dealer is found satisfactory :

Provided that where an application for renewal of a licence has been received by the Licensing Authority within the specified period and not rejected or returned for valid reasons within a month, the applicant may thereafter commence business and continue until his application is rejected :

Provided further that the validity of licence shall not be deemed to have expired if the application for renewal is pending with the Licensing Authority.

(5) Where a licence issued under this order is lost or destroyed or defaced, the licensee shall immediately obtain a duplicate copy thereof from the Licensing Authority on application."

4. Clause 7 of the 2002 Order clearly stipulates that the Licensing Authority may, after giving the applicant an opportunity of stating its case and for reasons to be recorded and communicated in writing, refuse or renew the licence.

5. Learned Addl. Government Advocate fairly submitted that no opportunity has been given to the petitioners. It is further submitted that an appeal is provided for in the 2002 Order. But then, the grievance of the petitioners in the present writ petition is that their application for renewal of licence was not accepted by the authority concerned. An appeal lies only against an order passed and not against non-observance of the provisions, and non-receipt of the application for renewal. In consonance with the clause quoted (supra), the authority concerned are required to accept the renewal application and deal with it. Non-compliance or refusing to accept renewal application is contrary to the provisions made in the 2002 Order.

6. The grievance of the petitioners being simple, I dispose of this writ petition directing the opposite party-authorities to accept and deal with the renewal application if filed by the petitioners strictly in consonance with the provisions of the 2002 Order and thereafter proceed in accordance with law.

7. Free copy of this order be supplied to the learned counsel for the petitioners and the learned Addl. Government Advocate.