

(2022) 01 OHC CK 0176

In the Orissa High Court

Case No : Writ Petition (Civil) No. 1355 Of 2022

Sachitra Kumar Sahoo And Another

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 24-01-2022

Acts Referred:

Citation : (2022) 01 OHC CK 0176

Hon'ble Judges : Dr. S. Muralidhar, CJ;S. Mishra, J

Bench : Division Bench

Advocate : A. K. Patra, Debakanta Mohanty

Final Decision : Disposed Of

Judgement

1. This matter is taken up through virtual mode by a separate notice.

2. The prayer in the present writ petition is for refund of application fees collected from the Petitioners pursuant to the sale notice dated 23rd November, 2020, which stood quashed by judgment dated 12th January, 2021 passed by this Court in Writ Petition (Civil) No.32947 of 2020. The operative portion of the said judgment reads as under:

27. For all the aforementioned reasons, the impugned order dated 23rd November, 2020 cancelling the Petitioner's license in respect of five IMFL Off

Shops is hereby quashed. The Intervention Application is not entertained. It is clarified that all consequential actions taken by the Opposite Parties including settling

the licences in respect of three IMFL OFF Shops in favour of the Interveners cannot be sustained in law. If any money has been collected by the Opposite

Parties from any of the interveners, it shall be forthwith returned by the Opposite Parties to them. The Intervention Application is accordingly disposed of.â??

3. Learned counsel for the Petitioners points out that although the present Petitioners were not interveners, they should not be discriminated against

only because they did not seek to intervene in the above writ petition. He states that the Petitioners are on the same footing as the interveners in the above writ petition.

4. Mr. Mohanty, learned Additional Government Advocate appearing for the Opposite Parties refers to the counter affidavit filed therein and in

particular to para-3 thereof, which extracts clause No. xi (b) of the sale notice, which states that the application fees collected up to Rs.1,00,000/- is

non-refundable. Mr. Mohanty seeks to draw a distinction between the interveners in the above writ petition and the present Petitioners by contending

that the interveners had succeeded in the lottery whereas the present Petitioners merely participated in the lottery.

5. In the context of refund having been ordered by this Court in the above judgment dated 12th January, 2021, no distinction can be drawn between

the interveners in the said writ petition and the present Petitioners. The fact remains that the sale notice itself stood quashed and, therefore any

amount collected pursuant thereto had to be refunded. Merely because the present Petitioners did not choose to be intervene at that stage cannot be a

ground to deny them the similar relief as prayed for.

6. Consequently, the Court directs that the amount collected from the present Petitioners as application fees be refunded to them within a period of

eight weeks from today.

7. The writ petition is disposed of in the above terms.

8. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order

available in the High Courtâ??s website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide

Courtâ??s Notice No.4587, dated 25th March, 2020, modified by Notice No.4798, dated 15th April, 2021, and Courtâ??s Office Order circulated

vide Memo Nos. No.514 and 515 dated 7th January, 2022.

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