
(2003) 11 OHC CK 0030
In the Orissa High Court
Case No : Writ Petition (C) No. 2991 of 2003

Shri Babulal Motali

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 10-11-2003

Acts Referred:

Citation : (2003) 2 OLR 671

Hon'ble Judges : B.P. Das, J

Bench : Single Bench

Advocate : Mahendra Kumar Das and S. Mallick, for the Appellant; A.G.A., for the Respondent

Final Decision : Allowed

Judgement

B.P. Das, J.—Heard learned counsel for the petitioner as well as learned Addl. Govt. Advocate for the State.

2. The petitioner in this writ petition challenges the action of the opposite parties in cancelling the licence of the petitioner for Sub-wholesalership in Kerosene oil on the ground that before cancelling the licence, no opportunity of hearing was given to the petitioner. It is stated that the petitioner was a licence holder to deal in Kerosene oil as Sub-wholesaler at Ghantapada under Kantamal Block of Boudh district since 15.7.2000 and the said licence was valid till 31.3.2003. On 20.2.2003 O.P. No. 2, i.e., the Collector, Boudh, by his order dated 20.2.2003 (Annexure-2) cancelled the licence for Sub- wholesaler in Kerosene on the ground that he was appointed after 15.2.1999 without the approval of the State Govt.

3. O.P. Nos.2 and 3 have filed counter affidavit through the Sub-Collector, Boudh and Civil Supplies Officer-in-charge, Boudh, justifying the action of the opposite parties in cancelling the licence inquestion.

4. During the course of hearing this Court was not satisfied with the averments made in the counter affidavit as the same did not contain anything about

affording any opportunity of hearing to the petitioner before cancelling the licence for which counsel for the State was directed to produce the relevant file in which the impugned order was passed.

Learned Addl. Govt. Advocate today produces the relevant file for my perusal.

5. From the file produced before me, I do not find that any opportunity of hearing was extended to the petitioner before cancelling the licence in question in terms of Clause 10 of the Orissa Kerosene Control Order, 1962 and no reasons have been recorded for such cancellation of the licence. Though some reason has been recorded, that is not enough. The impugned order in Annexure-2 cancelling the licence of the petitioner is palpably wrong since the same was passed without affording any opportunity of hearing to the petitioner. I, therefore, set aside the same.

6. The writ petition is allowed accordingly. No cost.