



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.3103 of 2025

Manoj Kumar Barik and another* *Petitioners

Mr. Arun Kumar Patra, Advocate

-versus-

State of Odisha and others* *Opposite Parties

Mr. Debashis Tripathy,
Additional Government Advocate

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

19.03.2026

Order No.

01. ***I.*** The petitioners, having deposited license fee of Rs.4,75,000/-, were issued with license to run Mausumi Restaurant ON shop at Malud on 01.04.2025. But the Collector, Puri, on 13.04.2015 due to public objection directed to close said ON shop invoking power under Section 26 of the Bihar and Odisha Excise Act, 1915; as a result of which the shop was closed.
- 1.1.*** The license of the ON shop got renewed up to 30.06.2016 on deposit of further license fee of Rs.2,25,000/- but the petitioners were not allowed to open the shop. The petitioners sought to surrender the ON shop with effect from 01.07.2016.
- 1.2.*** The Superintendent of Excise, however, raised demand *vide* notices dated 15.03.2026 and 07.05.2016 on account of shortfall of Minimum Guaranteed Quantity, which being challenged



before this Court were quashed *vide* orders dated 13.08.2019 in W.P.(C) No.5061 of 2016 and dated 14.02.2023 in W.P.(C) No.8107 of 2016.

- 1.3. Accordingly, an application dated 22.09.2023 was filed for consideration of refund of license fee of Rs.10,75,000/- in terms of Rules 45 and 151 of the Odisha Excise Rules, 2017 on account of closure period from 14.04.2015 to 31.03.2016.
- 1.4. Though proposal was sought for by the authority concerned with respect to refund of license fee by the Government, no decision being taken, the petitioners under constraint filed application dated 12.02.2024. The Collector, Puri by letter dated 18.03.2024 submitted proposal that such refund of license fee does not arise.
- 1.5. However, factual report was called for by the Government by letter dated 04.04.2024 pursuant to which the Superintendent of Excise furnished the report as follows:

“***

As regards submission of proposal for sanction of refund, since the license has not deposited the demanded amount as per this office notice No.265/Ex., dated 15.03.2016 & No.501/Ex., dated 07.05.2016, which has been quashed by the Hon'ble Court, question of submission of proposal for refund does not arise. Apart from this, no such order has been received from the Hon'ble Court for refund of license fee for the period from 14.04.2015 to 31.03.2016 and for the excise years 2016-17 (April to June, 2016) as per prayer of the license.”



- 1.6. On 13.05.2024, the Superintendent of Excise, Puri by letter dated 13.05.2014 intimated the Joint Excise Commissioner, Policy that though the closure order was forwarded to the Excise Commissioner, Odisha *vide* Office Memo No.347/Ex., dated 13.04.2015, no further order was received. It is, therefore, construed that there was no approval from the Excise Commissioner for closure of ON shop for continuous period of more than three days. As a result of the petitioner is to be denied refund. The Petitioners are aggrieved by such observation of the authorities.
2. It is stated by Shri Arun Kumar Patra, learned Advocate for the petitioners that it is undeniable that the shop remained closed from 14.04.2015 to 31.03.2016. Therefore, the opposite parties particularly, opposite party no.1, is required to be directed to consider the applications filed by the petitioners for refund of license fee.
3. Mr. Debashis Tripathy, learned Additional Government Advocate supported the action of the authorities by submitting that as there was no approval of the Excise Commissioner for closure of the ON shop for more than three days, the claim of the petitioners is uncalled for.
4. Heard learned counsel for the parties. Considered the submissions. Record reveals that the aforesaid fact as narrated by the petitioners is correct and there is no objection from any



quarter with regard to closure of shop due to objections raised by the local people.

- 4.1. On a bare perusal of letter dated 13.05.2024 issued by the Superintendent of Excise, Puri, it emanates that the closure order was forwarded to the Excise Commissioner by letter dated 13.04.2015. However, no approval was received from the Excise Commissioner. The fact remained that the petitioner could not reopen the shop till date. It is admitted in the said letter that the petitioners have deposited the license fee for the years 2015-16 and 2016-17 (up to June 2016). When there is no dispute by any quarter that the shop remained closed for the said period for no fault of the petitioners, but for the reason that there was public opposition. Obviously, there cannot be any doubt entertained on reading of said letter that the shop remained closed for more than three days. In getting the approval the petitioners are not in any responsible.
- 4.2. Considering the facts so adumbrated, it is felt apposite to direct the opposite party no.1 to consider the application for refund of license fee of Rs.10,75,000/- collected through challan for the closure periods from 14.04.2015 to 30.06.2016 in connection with Mausumi Restaurant IMFL On shop at Malud within a period of four weeks from the communication of this order. A reasoned order is directed to be passed by the authority concerned and communication thereof be made forthwith.



5. With the aforesaid observations and direction, the writ petition stands disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Aswini

Signature Not
Verified

Digitally Signed
Signed by: ASWINI KUMAR
SETHY
Designation: Personal Assistant
(Secretary-in-charge)
Reason: Authentication
Location: ORISSA HIGH
COURT, CUTTACK
Date: 23-Mar-2026 16:31:54