

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.31013 of 2021

Anita Das

.... *Petitioner*

Mr. A.K. Patra, Advocate

-versus-

State of Orissa and others

.... *Opposite Parties*

Mr. Debakanta Mohanty, A.G.A.

CORAM:

THE CHIEF JUSTICE

JUSTICE B.P. ROUTRAY

ORDER

02.11.2021

Order No.

01.

1. The matter is taken up by a separate notice.

2. The prayer in the present writ petition is for refund of application fees collected from the Petitioner 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.”

3. Learned counsel for the Petitioners points out that although the present Petitioner was not interveners, she should not be discriminated against only because she did not seek to intervene in the above writ petition. He states that she is 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 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 Petitioner by contending that the interveners had succeeded in the lottery whereas the present Petitioner 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 Petitioner did not choose to be intervene at that stage cannot be a ground to deny her the similar relief as prayed for.

6. Consequently, the Court directs that the amount collected from the present Petitioner as application fees be refunded to her within a period of eight weeks from today.

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

8. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(B.P. Routray)
Judge

S.K. Guin