IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 24859 of 2026
CNR No.ODHC010566312026

Smt. Pravasini Pattnaik @ Prabhasini Pattnaik .... ***Petitioner***

Mr. Sarat Kumar Gajendra, Senior Advocate
assisted by Mr. Laxman Pradhan, Advocate

-versus-

Excise Commissioner, Odisha and another .... ***Opposite parties***

Ms. Aishwarya Dash, Additional Standing Counsel

CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR JUSTICE CHITTARANJAN DASH

ORDER
10.09.2026

Order No.

01. **1.** A letter withdrawing the license/permission for a musical programme within the bar premises with immediate effect is a subject matter of challenge in the instant writ petition.

2. According to Mr. Sarat Kumar Ganjendra, learned Senior Counsel appearing on behalf of the petitioner, the proceeding was initiated on an alleged ground which comes within the purview of an offense and the order dated 20th March, 2026 passed by the Collector and District Magistrate, Khordha would reveal that the same was duly compounded with.

3. It is revealed from the said order that the team conducted a surprise visit to the bar and noticed certain non-adherence of the conditions enshrined under Rule-44(5) of the Odisha Excise Rules, 2017 (in short "the said Rules"). While compounding such

discrepancies and/or lapses, it is observed in the said order that once the fee/fine is collected and the permission is withdrawn, the bar may be opened and operated as a normal bar.

4. The petitioner submits that the said order has been duly complied with by depositing the compounding fee/fine, yet the order/letter dated 11th May, 2026 is issued by the Joint Excise Commissioner withdrawing the permission for a music performance with immediate effect.

5. We noticed from Rule-44(4) of the said Rules, more particularly, the proviso appended thereto that a woman, not below the age of twenty-one (21) years, is permitted to be engaged in a musical programme or orchestra in any liquor shop licensed to sell foreign liquor or IMFL for consumption on the premises with a prior written permission of the Commissioner.

6. The moment the said proviso permits such musical programme or the orchestra to be performed within the bar premises, selling the IMFL or foreign liquor, we do not find any absolute fetter being put in this regard. However, such permission is to be obtained from the Commissioner before the licensee of the IMFL 'ON' shop for the musical performance or the orchestra, and therefore, it is mandatory to have such permission before the said licensee embarked upon such periphery.

7. However, Rule-44(5) of the said Rules, which stood earlier, was subsequently amended by a notification dated 29th October, 2024. The significant distinction is noticed from the un-amended provision and the amendment having been brought by virtue of such notification that the dance performance has been done away with and

restriction is imposed only on a musical performance or the orchestra within the bar premises.

8. The said Sub-Rule further contains exhaustive remedial and/or precautionary measures to be undertaken by the licensee with regard to the musical programme or orchestra and once such compliance is to be ensured and the language used therein makes the same mandatory, the licensee cannot violate any of such compliance.

9. We find that the amended provision contains exhaustive lists of the compliance to be ensured by the said licensee, which runs thus:

> *"**Rule-44(5)**. The Commissioner shall impose the following conditions before granting such permission namely:—*
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> *(a) The premises shall be fixed with Closed Circuit Television (CCTV) Cameras at appropriate places including the performance stage and with appropriate mechanism to ensure that the said facilities cannot be tampered with and switched on round the clock;*
>
> *(b) The recorded footage of CCTV Cameras shall be made available to the jurisdictional Inspector-in-Charge of Police Station as well as Officer-in-Charge (OIC) of Excise Station;*
>
> *(c) If the CCTV Cameras do not function, it shall be immediately reported to the concerned OIC of the Excise Station as well as the Police Station in which jurisdiction, the licensed premise is located. The musical Programme or Orchestra shall be stopped forthwith as and when the CCTV cameras become dysfunctional;*
>
> *(d) The associated Hard Disc in such CCTV system must have the capacity to store data for a minimum period of three months;*
>
> *(e) The licensee shall make an application along with either voter ID card or Aadhar card and clear photograph of the performers, taken within 6 month of*

such application whom they seek to engage in the musical programme or Orchestra, containing the names and details of the performers;

(f) The performers should wear clothes keeping public decency in mind;

(g) The performance stage should be bounded with a railing of 3 (three) feet height and there should be minimum 5 (five) feet distance between the railing and the seats for customers;

(h) A register shall be maintained by the licensee to keep records of names and local residential address of women performing in the musical programme or orchestra every day, which should be produced before an inspecting Police Officer or Excise Officer on demand;

(i) It shall be the responsibility of the licensee to gather and verify the information regarding name, local address, photograph and citizenship of the performers before applying for such permission. No women having been charge-sheeted by Police for involvement in Immoral Trafficking(Prevention) Act, 1956 shall be engaged for performing in the musical Programme or Orchestra;

(j) The area designated for the musical performance or Orchestra shall be minimum 10 ft x 12 ft i.e., 120sq ft (One hundred and twenty sq.ft.);

(k) The performers shall not be awarded by the customers directly, either by paying money or by showering anything which can be converted into money;

(l) If any customer wants to award a performer, the same shall be handed over to the manager of the licensed premises concerned;

(m) The licensee shall display the license prominently on the walls of the Place of performance;

(n) Subject to the provisions of the prohibition of smoking in public places rules, no person shall smoke and no licensee or his nominated manager or managers shall permit smoking in the establishment;

(o) Separate washroom and locker facilities shall be provided for performers so engaged;

(p) The applicant or licensee shall be holding the certificate regarding fire safety from the Competent Authority;

(q) The establishment shall issue a photo ID card to each performer so engaged which shall be carried by that employee at all times during the period of duty;

(r) Adequate private security measures must be taken by the licensee to prevent sexual or other harassment in any form of any woman engaged in his/her licensed premises;

(s) The licensee must ensure the safety of women engaged in his/her "ON" shop by providing free and suitable travel arrangements to her place of residence, either temporary or permanent;

(t) The licensee is to submit a letter of consent by the performer along with medical fitness certificate; and

(u) Permission of competent authority as regards Regulation and Control in use of loudspeakers in terms of the Noise Pollution (Regulation and Control) Rules, 2000 shall be obtained."

10. It is thus manifest that the Commissioner cannot withdraw the permission for all time to come, but the moment the compliance is ensured, in view of the rights having recognized in the statutory provision, the permission has to be given upon the subjective satisfaction of the conditions enshrined in the said provision. The withdrawal for all time to come may not be conducive in this regard in view of the cumulative effect of Sub-Rules- (4) and (5) of Rule-44 of the said Rules and the authorities must have temporarily suspended and/or withdrawn the said permission subject to the compliance of the condition enshrined in Sub-Rule (5) of Rule-44.

11. The moment the petitioner complies with those conditions and approaches the Commissioner that there are no lapses and/or gaps in this regard, we do not find any fetter on the part of the Commissioner in resurrecting the said permission upon recording the satisfaction in this regard.

12. The order dated 11th May, 2026 is modified to the extent that the withdrawal of the permission shall be treated as temporary and, in the event, the petitioner complies with all the conditions enshrined in Sub-Rule (5) of Rule-44 and informs the Commissioner for its verification upon being satisfied that those conditions have been fulfilled, the Commissioner shall take a reasonable decision in reviving the permission, which has been withdrawn temporarily, within two weeks from the date of compliance with the said conditions by the petitioner.

13. With these observations and directions, the instant writ petition is disposed of.

(Harish Tandon)
Chief Justice

(Chittaranjan Dash)
Judge

Sisira

Signature Not Verified
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Signed by: SISIRA KUMAR BEHERA
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 13-Sep-2026 13:02:19