



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17369 of 2026
CNR No.ODHC010400142026

M/s. Hotel Moonlight, represented ***Petitioner***
through its Managing partner Sri
Pradyut Kumar Ghosh, Balasore

Mr. P.K. Rath, Senior Advocate

-versus-

State of Odisha, represented through its ***Opposite Parties***
Principal Secretary, Excise Department
and Others

Mr. G. Tripathy, AGA

CORAM:
JUSTICE B. P. ROUTRAY
JUSTICE CHITTARANJAN DASH

ORDER
30.07.2026

Order No.

- 02.
1. Heard Mr. P.K. Rath, learned senior counsel for the Petitioner and Mr. G. Tripathy, learned Additional Government Advocate for State-Opposite Parties.
 2. The Petitioner has prayed for quashing of letter dated 12th December, 2025 of the Excise Commissioner and order dated 11th May, 2026 of the Collector, Balasore, under Annexures-1 and 2 respectively.
 3. It is submitted that the issue involved in the present Writ Petition regarding the grant of a Fire Safety Certificate as a mandatory requirement for the establishment in question has already been adjudicated by the Co-ordinate Bench of this Court vide order dated 27th July, 2026 passed in **W.P.(C) No. 17811 of**



2026, wherein one of us (Chittaranjan Dash, J.) is a member of the Bench. The relevant paragraph is reproduced below:-

“3. Though the Petitioner has taken shelter under clause-h thereof, which relates to business or office building, having a height of 12 meters and over, but we also took notice of clause-g and k, which has a remote connection with the operation of the restaurant and thus, find that the mandatory requirement of a certificate is either to the premises having a height of 12 meters and above or constructed beyond 500 square meters and above area. Rule 11 as indicated herein above, thus, is applicable in relation to the premises or a class of premises identified in Rule 9(1) thereof and in the event, the same is contrived in the area and/or a height, it puts such premises or a building beyond the purview thereof. The authority cannot compel a person to do a thing, not provided in law nor can compel a person to meet the requisition if the situation keeps the same outside the purview of the statutory provision. We, thus, find that insisting upon a certificate to be issued from the fire department or an NOC is unwarranted and beyond the scope of the Excise Act and the Rules framed thereunder. Even if we hold that it is beyond the purview of the Act, yet the importance of providing safety measures and keeping safety gadgets within such building or the premises is a need of an hour and should not be dispensed with.

4. A responsible citizen would always make endeavour to keep those safety gadgets to avoid any incident of fire to surge and we are informed by the learned Advocate for the Petitioner that the fire extinguisher have already been installed at different places and a regular monitoring and/or refilling and/or replacement are being made from the authorized agencies.



5. Based on such assurances, we do not find that any further instruction is required to be issued in this regard. The letter mandating the fire safety certificate and/or NOC by all the IMFL ON shop units without earmarking the nature of the building or the construction as incorporated in the amended Rule 9(1) cannot be sustained in the eye of law; the same is hereby quashed and set aside.”

4. The fact matrix and position of law in the above writ application being similar, judicial discipline and propriety demands the same to be followed. Accordingly, we feel it appropriate to apply the ratio decided as above and quash the letter dated 12th December, 2025 and the order dated 11th May, 2026 of the Collector, Balasore, vide Annexures 1-2, respectively.

5. The Writ Petitioner is, hence, disposed of.

(B.P. Routray)
Judge

(Chittaranjan Dash)
Judge