
(1983) 08 OHC CK 0028
In the Orissa High Court
Case No : O.J.C. No. 199 of 1983

Abhimanyu Nayak

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 01-08-1983

Acts Referred:

Orissa Education (Recruitment and Conditions of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules, 1974 — Rule 21(2)

Citation : (1983) 56 CLT 239

Hon'ble Judges : R.C. Patnaik, J;B.K. Behera, J

Bench : Division Bench

Advocate : J.K. Rath, for the Appellant; D.P. Sahoo for Opp. Parties 1 and 2, K.N. Jena and A.K. Samal for the Opp. Parties 3 and 4, for the Respondent

Final Decision : Allowed

Judgement

B.K. Behera, J.—The Petitioner assails the order of suspension dated November 30, 1982 (Annexure-4) passed by the Managing Committee of the Asurali High School, of which he was the Headmaster, for alleged misappropriation. It is not necessary for us to go into the question of propriety of the order of suspension which has not been challenged before us. The only question raised by the learned Counsel for the Petitioner is the continuance of the order of suspension beyond the period of thirty days in violation of the second proviso to Rule 21(2) of the Orissa Education (Recruitment and Conditions of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules, 1974 providing that the Managing Committee may place an employee under suspension at the initiation of a disciplinary proceeding for a period of thirty days pending approval of the Inspector or the Director, as the case maybe. While it has been submitted by the learned Counsel for the Petitioner that under the proviso referred to above, the order of suspension can not operate beyond a period of thirty days without approval of the Inspector it has been contended on behalf of the opposite party Nos. 3 and 4 that a proposal had been made to the Circle Inspector of Schools (opposite party No. 2) for approval and if the Inspector has not approved

the order of suspension in time, the Managing Committee cannot be held responsible and if an order of suspension of the nature passed in the instant case is rendered invalid on that account, the administration in a school will seriously be affected. While we appreciate the contention raised on behalf of the opposite party Nos. 3 and 4 that an Inspector should not sit over such matters and a final decision should be taken approving or disapproving the order of suspension within a period of thirty days, it has been submitted by the learned Counsel for both the sides that the order of suspension has not received the approval of the appropriate authority within a period of thirty days. The order of suspension passed on November 30, 1982 has spent its force and is now invalid and inoperative as it has not received the approval of the appropriate authority within the prescribed time. The contention raised on behalf of the Petitioner shall, therefore, prevail.

2. In the result, we would allow the writ application and quash Annexure-4. In the circumstances of the case, we make no order as to costs.

R.C. Patnaik, J.

3. I agree.