

(2024) 06 OHC CK 0013
In the Orissa High Court
Case No : Writ Petition (C) No. 1925 Of 2018

Ashok Kumar Das

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 20-06-2024

Acts Referred:

Citation : (2024) 06 OHC CK 0013

Hon'ble Judges : Biraja Prasanna Satapathy, J

Bench : Single Bench

Advocate : P.K. Mohanty, S.Jena

Final Decision : Disposed Of

Judgement

Biraja Prasanna Satapathy, J

1. This matter is taken up through hybrid mode.
2. Heard Mr. P.K. Mohanty, learned counsel appearing for the Petitioner and Mr. S Jena, learned Addl. Govt. Advocate appearing for the State-Opp. Parties.
3. In spite of appearance, nobody appeared on behalf of Opp. Party No.5.
4. Petitioner has filed the Present Writ Petition inter alia with the following prayer.
"The Petitioner, therefore, prays that the Hon'ble Court may graciously be pleased to issue Rule Nisi calling upon the opposite parties to show-cause as to why the letter/proposal of the Opp. Party NO.3 dated 23.11.2017 along with list of the staffs of Maa Ambika Harijan Adivasi Sikshya Sevashram, Sidhal, Jagatsinghpur submitted before the Opposite Party NO.2 for approval under Annexure-7 shall not be quashed and as to why the opposite party NO.4 shall not be directed to send fresh proposal for approval of the staffs of the school indicating the name of the petitioner as Headmaster of the School within a stipulated period."
5. It is contended that vide Office Order dt.10.08.1998, Petitioner was appointed

as Headmaster of Maa Ambika Harijan Adivasi Sikshya Sevashram, Sidhal. Petitioner thereafter joined on 13.08.1998 vide Annexure-2 and continuance of the Petitioner as Headmaster of the school is also reflected in the communication issued by the then Inspector of School, Jagatsinghpur Circle vide Annexure-3 and in the Identity Card issued by the Board of Secondary Education under Annexure-4.

5.1. It is contended that even though the Petitioner since 13.08.1998 was allowed to continue as Headmaster In-charge of the School in question, but for the first time while issuing the impugned communication dated 23.11.2017, Opp. Party No.3 indicated the name of one Gitanjali Barik/Opp. Party No.5 as against the post of Headmaster In-charge in place of the Petitioner for approval of the services as against the post of Headmaster-in-charge.

5.2. Learned counsel for the Petitioner contended that since petitioner was duly appointed as Headmaster of the School vide order of appointment issued on 10.08.1998 under Annexure-1 with his date of joining as 13.08.1998, name of Opp. Party No.5 could not have been indicated in the impugned communication dated 23.11.2017 under Annexure-7. It is accordingly contended that recommendation available at Annexure-7 so far as it relates to the post of Headmaster -in-charge in favour of Opp. Party No.5 is not sustainable in the eye of law.

6. Even though notice of the writ petition has been issued since 16. 07.2018, but no counter affidavit has been filed as on date either by the State or by Opp. Party No.5. This Court while issuing notice of the matter on 16.07.2018 also passed an interim order that any approval made as against the post of Headmaster shall be subject to final outcome of the Writ Petition. But it is fairly contended by the learned counsel for the parties that no order of approval has yet been issued basing on Annexure-7.

7. Having heard learned counsel for the parties and considering the submission made, this Court while disposing the Writ Petition directs the Petitioner to make an appropriate application before Opp. Party No.2 for consideration of his claim to get the benefit of approval as against the post of Headmaster of the school in question.

This Court permits the petitioner to appear before Opp. Party No.2 on 06.07.2024 along with the application and relevant documents in support of his claim. Opp. Party No.2 is directed to consider the case of the Petitioner and take a lawful decision after giving due opportunity of hearing to the petitioner as well as Opp. Party Nos.3,4 & 5, but prior to taking a final decision with regard to approval of the services as against the post of Headmaster as recommended vide Annexure-7 within a period of 4(four) months from the date of appearance of the Petitioner as directed.

The Writ Petition is accordingly disposed of.