

(2022) 08 OHC CK 0114
In the Orissa High Court
Case No : Writ Petition (C) No. 12396 Of 2022

Bhabani Sankar Acharya

APPELLANT

Vs

Asit Baran Swain And Others

RESPONDENT

Date of Decision : 12-08-2022

Acts Referred:

Citation : (2022) 08 OHC CK 0114

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : Neelakantha Panda, S. Ghosh, P.K.Das, B. Pujar

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

1. The writ petition has been specially assigned to this Bench. Mr. Panda, learned advocate appears on behalf of petitioner and submits, his client is a member of Odisha Ministerial Officers' Association. Impugned is letter dated 27th April, 2022 written by the General Secretary to Collector and District Magistrate, Koraput, thereby purporting to appoint ad-hoc body and its members. He submits, the secretary has acted in excess of his power. There should be interference in striking down impugned letter.

2. State was not made party by petitioner. In order dated 17th May, 2022 there was direction upon petitioner to add State as party since impugned letter stood addressed to functionary of the State. Mr. Ghosh, learned advocate, Additional Government Advocate appears on its behalf.

3. Mr. Das, learned advocate appears on behalf of opposite party nos. 2 to 5. On query from Court he draws attention to writing dated 5th April, 2022, being record of proceeding of extended Executive Council meeting held on 3rd April, 2022. Paragraph-12 therefrom is reproduced below.

"12. Besides the above resolution to the extent of dissolution of district body and

appointment of adhoc body, the house also resolved unanimously to expel Sri Prasanna Kumar Nayak SRA and Sri Bhabani Sankar Acharya SRA (both are under Koraput Collectrate) from primary membership of Odisha Ministerial Officers Association who have not been able to protect the interests of the Association and involving in anti Associational activities since long. The house authorized the General Secretary of the Association to communicate the decision of the house to persons concerned."

He submits, inter alia, petitioner has outlived his tenure and had indulged in anti association activities and was such reason for formation of ad-hoc body, informed to the Government by impugned letter. On further query from Court he relies on clauses 21 and 26 of the association bye laws to submit, impugned letter was written with authority.

4. First paragraph from impugned letter is reproduced below.

"In enclosing herewith a copy of Proceedings of the Extended Executive Council meeting of the State Association dated 03.04.2022. I am to say that the State Council has been pleased to dissolve the body of Odisha Ministerial Officers Association, District Unit, Koraput as they have already completed their term as per Bye Law of the Association and has been defunct since long. Further the Council has resolved to constitute an adhoc Body for the Koraput district Unit to protect the interests of the Members of the Association and take initiative for formation of district elected body."

Court has ascertained that effect of impugned letter is dissolution of the elected body in Koraput unit of the association. Petitioner was an elected member, whose term of office has expired.

5. Relied upon clauses 21 and 26 from the bye laws are reproduced below.

"21. The Central Executive Committee will consist of the office bearers of the Association, the Chairman, President, Working President, Secretary or their nominees of each dist. branch and thirty one other members to be elected at the conference and will have the power to decide all matters relating to the' Association including the Dist. branches and the decision of the Central Executive Committee shall be final except in matters coming within the jurisdiction of the conference.

26. The Central Executive Committee shall have the power to appoint sub-committee from amongst its own members or with any members of the Association for specific purposes."

6. By impugned letter an elected body has been declared to be dissolved and substituted by an ad-hoc body. Relied upon clauses 21 nor 26 in the bye laws authorized such action to be taken by the Central Executive Committee. Tenure of office bearers in the elected body of Koraput unit of the association has ended. Court has not been shown any provision in the bye laws empowering the Central Executive Committee to impose an ad-hoc body on an unit of the association.

Clause-26 empowers the Central Executive Committee to appoint sub-committee. That is not a power as cannot be exercised for appointing ad-hoc committee replacing an elected body, whose term has expired.

7. Impugned communication is set aside and quashed. Petitioner will communicate this order to the Collector.

8. The writ petition is disposed of.

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