

---

**(2019) 03 OHC CK 0027**  
**In the Orissa High Court**  
**Case No : W.A. No.434 Of 2018**

Ramesh Chandra Parida

APPELLANT

Vs

State of Orissa And Others

RESPONDENT

---

**Date of Decision :** 08-03-2019

**Acts Referred:**

**Citation :** (2019) 03 OHC CK 0027

**Hon'ble Judges :** S. K. Mishra, J;J. P. Das, J

**Bench :** Division Bench

**Advocate :** P.C. Acharya, S.K.Parida, Kali Prasanna Mishra, S. Mohapatra, T.P. Tripathy, L.P. Dwibedy, Bigyan Ku. Sharma, U.R. Jana

**Final Decision :** Dismissed

---

## Judgement

S.K. Mishra, J

1. This Intra Court Appeal arises out of the impugned judgment and order dated 19.07.2018 passed by the learned Single Judge in W.P.(C) No.7512

of 2012 affirming the order dated 30./31.03.2012 passed by the Joint Director (Schools), R.D.E., Bhubaneswar in Appeal Case No.151 of 2010,

whereby the order of termination dated 27.02.2004 issued against the appellant was challenged.

2. The case of the appellant/ petitioner was that he was appointed in Udaya Narayan Vidyapitha, Dhobasila in the district of Balasore (hereinafter

referred to as "the School" for brevity), which was in receipt of Block grant, as Hindi Teacher on 14.12.1991 pursuant to the decision of the

Managing Committee. The appellant/ petitioner was discharging his duties regularly, but show cause notice was issued by the Managing committee on

the ground of long unauthorized absence from 12.04.1999 to 27.02.2004 and

thereafter, he was terminated from service vide order no.21 dated 27.02.2004 of the Managing Committee of the School.

3. It is pertinent to mention here that the grounds for challenging the order of termination as taken before the learned Single Judge by the appellant/ petitioner were:

(i) the order of termination is after thought for the reason that even before passing of the order of termination the Managing Committee of the School

has appointed Hindi Teacher and only to accommodate such teacher/ teachers, the petitioner has been terminated.

(ii) without holding any enquiry or even any enquiry has been conducted but without serving any second show cause notice upon him, the order of termination has been passed. So, it is violation of principle of natural justice.

4. The respondents/ opposite parties had appeared including the respondent opposite party no.5- Managing Committee of the School and submitted

that the appellant/ petitioner was appointed as Hindi Teacher on 14.12.1991 and he has been discharging his duty sincerely, but from 12.04.1999 to

27.02.2004 he remained absent from the School. In spite of repeated notices issued upon him to resume duty, failing which, disciplinary action will be

taken against him, he had not responded to it. The Managing Committee/ Governing Body of the School having no option, decided to terminate the

appellant/ petitioner from service so that teaching in Hindi subject may not be hampered and the students may not be deprived from study in Hindi

subject. It was done so, because in the institution in question only one Hindi Teacher post was available and when the appellant/ petitioner remained

absent for a period of about five years, in order to provide teaching in Hindi subject, the appointment has been made.

So far the allegation that show cause notice has not been issued or there is violation of principle of natural justice is concerned, it was submitted by the

learned counsel for the respondent/ opposite parties that in spite of repeated show cause notices issued to the appellant/ petitioner as has been

annexed to the counter affidavit in the writ petition, he had not responded to it and therefore, the Managing Committee of the School having no other

option, had constituted an enquiry and submitted report on 25.02.2004. The allegations against the appellant/ petitioner having been proved and the

order of termination having already been passed, the same does not suffer

violation of principle of natural justice and the order of termination should not be interfered with.

5. Though it was not argued before the learned Single Judge about the factual aspect of the case, learned counsel for the appellant submitted that

from the attendance Register it is clear that the appellant had appeared and attended the classes, as his signatures found place in the attendance

Register. On the other hand, learned counsel for the opposite party no.5- the Managing Committee of the School submitted that the appellant has done

so by using force or by abusing and causing physical restraint to the Headmaster of the School.

6. Learned Single Judge has come to the findings that there has been no violation of principle of natural justice or there is no violation of rule of audi

alteram as the appellant has been duly served notice and he has not appeared before the Enquiry Committee. Accordingly, report was submitted and

the General Body of the Managing Committee of the School took a decision to terminate the appellant.

7. While arguing the case, learned counsel for the appellant files a written note of arguments. But, learned counsel for the appellant has not touched

to the ground that was agitated by the appellant before the Appellate Committee as well as before the learned Single Judge. Rather, at the appellate

stage i.e. in this Intra Court Appeal, he wanted to show that the factual allegations made by the Governing Body of the School are erroneous.

8. In that view of the matter, we are of the opinion that at this stage, such additional ground should not be taken, as the same was not pleaded either

before the Appellate Committee or before the learned Single Judge. So, we are unable to consider the same.

9. Moreover, it is apparent from the impugned judgment and order of the learned Single Judge as well as the documents produced for inspection at

the time of hearing of the case with respect to the second show cause notice, the appellant has admitted that he remained absent for a long period

because of his illness. So, not only the principle of natural justice has not been violated in this case but also the appellant himself admitted that he

remained absent for a long period.

10. In that view of the matter, we are of the considered opinion that no illegality has been committed by the learned Single Judge while passing the

impugned judgment and order and, therefore, there is no scope to interfere with the same.

11. Hence, this W.A. is dismissed being devoid of any merit.

There shall be no order as to costs.

Urgent certified copy of this order be granted on proper application.

..â?|â?|â?|â?|â?|â?|â?|..