
(1959) 02 OHC CK 0002

In the Orissa High Court

Case No : Original Jurisdiction Case No. 2909 of 1988

Smt. Rajani Sarangi

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 01-02-1959

Acts Referred:

Constitution of India, 1950 — Article 226
Orissa Municipal Act, 1950 — Section 402, 403

Citation : (1989) 1 OLR 279

Hon'ble Judges : S.C. Mohapatra, J; R.C. Patnaik, J

Bench : Division Bench

Advocate : None, for the Appellant; J.K. Misra and N.C. Misra for O.P. 7, P.K. Misra, N.C. Pati, A.K. Nanda and B.K. Nayak, A.S.C. for Intervenor, for the Respondent

Judgement

S.C. Mohapatra, J.—A letter sent by one Rajani Sarangi was treated as an application for exercise of power under Article 226 of the Constitution where being the wife of a teacher of a school under Bhanjanagar Notified Area Council, she alleged that though her husband has been serving in the school for years salary for the last few months has not been paid which was being paid irregularly previously. This has been a continuous state of affairs for the last 7 to 8 years. As a consequence, members of the family of a teacher are undergoing considerable hardship and sufferings.

2. Pursuant to notice, the Executive Officer of the Notified Area Council as well as the State Government submitted their returns.

3. It has been submitted by the Executive Officer that the Council has been superseded with effect from 12-11-1987 and the Sub-divisional Officer, Bhanjanagar, has been appointed to exercise the powers of the Council. u/s 403 of the Orissa Municipal Act, 1950 (for short, "the Act"), the State Government until the date of reconstitution of the Council would be entitled to all the asses and be subject to all the liability of the Municipal Council as on the date of super

session and on the date of the reconstitution respectively.

4. Sribatchha High School is under the management of the Council since 1971. The number of staff of the school 15 14 Besides the Headmaster, there are 6 Assistant Teachers, one Classical teacher, one Hindi Teacher, one P.E.T. One Assistant one Peon, one Night-watchman and one Science Attendant. The Council urged that there are 102 members of the staff under the Council. The grant given by the Government is not adequate to meet the expenses of their salaries and allowances. Hence, the Council had requested the Government to take over the school. Due to paucity of funds, salary for the months of July, August and September, 1988 has not been paid not only to the teachers of the school but also to other members of the staff.

5. In the return submitted by the State Government, it is submitted that the liability of making payment of salary to the employees is of the Bhanjanagar. Notified Area Council and Government have directed the Executive Officer to pay the salary of Banshidhar Sarangi, the husband of the Appellant Rajani Sarangi, who moved this Court as aforesaid, A copy of the letter has been annexed as Annexure-A and pursuant to the said direction, Shri Banshidhar Sarangi has been paid his salary till end of December, 1988 on 13th of January, 1989.

6. This, however, does not conclude the matter inasmuch as some teacher of Sribatchha High School have made an application for intervention alleging that they have not been paid their salary despite their representations to the Executive Officer and in view of the fact that the Notified Area Council has been superseded by the Government u/s 402 of the Act, the liabilities of the Council are to be shouldered by the Government as provided in Section 403. However, in the facts and circumstances, we would not express any opinion but direct the Government to take a decision in regard to payment of salary of other lechers having regard to the provisions contained in Section 403 of the Act and to the fact that the salary of Banshidhar Sarangi a teacher of the, school, has been paid by them and there ought not to be any discrimination. The decision shall be taken within six weeks.

7. With the aforesaid directions and observations, this writ application is disposed of A Copy of this order be handed over to the learned Counsel for the State.