

(2025) 06 OHC CK 0944

In the Orissa High Court

Case No : Writ Petition (C) No. 16682 Of 2025

Sri. Ghanshyam Das Khandelwa

APPELLANT

Vs

State Of Odisha & Others Vs

RESPONDENT

Date of Decision : 23-06-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2025) 06 OHC CK 0944

Hon'ble Judges : Ananda Chandra Behera, J

Bench : Single Bench

Advocate : Sailaza Nandan Das, A. Acharya, J. Sahoo

Final Decision : Disposed Of

Judgement

Ananda Chandra Behera, J

1. Heard from the learned counsel for the petitioner and the learned Addl. Standing Counsel for the State (Opp. Parties).

2. Upon hearing from the learned counsels of both the sides and considering the materials available in the record along with the impugned order, it is felt proper to dispose of this writ petition finally on the ground that, the Revisional Authority- Opp. Party No.2 (Addl. Commissioner, Addl. Revisional Court-III, Bhubaneswar) has passed the impugned order on dated 10.09.2024 (Annexure-6) against the petitioner in OSS Case No.1416 of 2019 only on the basis of the status report of the Tahasildar, Bhubaneswar prepared by the Tahasildar without supplying the copy of such status report of the Tahasildar, Bhubaneswar to the petitioner of this writ petition (who was the petitioner in OSS Case No.1416 of 2019) to rebut/ answer/comment on the said status report of the Tahasildar, Bhubaneswar.

3. On this aspect, the propositions of law has already been clarified by the Apex Court in a case between Deepak Ananda Patil Vs. The State of Maharashtra & Others reported in 2023 LiveLaw (SC) 30 at Para No.17 that,

"if the adjudicatory body is going to rely on any material, evidence or document for its decision against a party, then, the same must be brought to his notice and he be given an opportunity to rebut it or comment thereon. It is regarded as a fundamental principle of natural justice that no material ought to be relied on against a party without giving him an opportunity to respond to the same. If without disclosing any evidence to the party, the authority takes it into its consideration, and decides the matter against the party, then the decision is vitiated for it amounts to denial of a real and effective opportunity to the party to meet the case against him."

4. When the impugned order has been passed by the Addl. Commissioner, Addl. Revisional Court-III, Bhubaneswar (Opp. Party No.2) in O.S.S. Case No.1416 of 2019 against the petitioner only on the basis of the status report prepared by the Tahasildar, Bhubaneswar without appraising about the said report to the petitioner to answer/comment on the same, then, in view of the principles of law enunciated by the Apex Court in the ratio of the above decision, the impugned order dated 10.09.2024 passed in Revision Petition No. OSS - 1416/2019 by the Addl. Commissioner, Addl. Revisional Court-III, Bhubaneswar (Opp. Party No.2) is against the principles of natural justice. The same is liable to be vitiated/quashed.

5. Hence, this writ petition filed by the petitioner is allowed.

6. The matter vide Revision Petition No. OSS-1416/2019 is remitted back to the Addl. Commissioner, Addl. Revisional Court-III, Bhubaneswar (Opp. Party No.2) to decide the same afresh as per law after making the petitioner aware about the status report of the Tahasildar, Bhubaneswar along with other materials if any giving opportunity to the petitioner to rebut/ answer/comment on the same as expeditiously as possible.

7. The Registry is directed to communicate this Order to the Addl. Commissioner, Addl. Revisional Court-III, Bhubaneswar (Opp. Party No.2) immediately.

8. Accordingly, this writ petition is disposed of finally.

9. Pending application(s), if any, stand(s) disposed of.

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