
(1996) 07 OHC CK 0022
In the Orissa High Court
Case No : O.J.C. No. 5108 of 1996

Sri Narayan Dash

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 15-07-1996

Acts Referred:

Citation : (1996) 2 OLR 273

Hon'ble Judges : R.K. Patra, J; R.K. Dash, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard Sri Dash for the petitioner and learned Addl. Govt. Advocate for opp. parties 1 and 2.

2. By office order dated 9-5-1996 (Annexure-4) the Inspector of Schools, Khurda Circle, Khurda has declined to approve the appointment of the petitioner as Fourth peon basing on the circular of the year 1992. The petitioner being felt aggrieved by the said order, has approached this Court for the second time. As stated in the writ application, the petitioner was appointed as Fourth peon in Dhalapathar-Kalapathar Girls' High School. Dhalapathar on 27-4-1888 (Annexure-1). According to him by the time of his appointment the yardstick formulated in the year 1981 was in force which stipulated, inter alia, that if the roll strength of the school exceeded 100 the school would be entitled to a Fourth peon. The petitioner asserts that at that time the roll strength of the school justified his appointment as Fourth peon and accordingly he was appointed on 27-4-1988. The Headmistress of the school, in her letter dated 20-7-1993 recommended to the Inspector of Schools for approval of the petitioner's appointment. As no positive action was taken, he filed a writ application vide OJC No. 9614 of 1995 in this Court alleging inaction on the part of the Inspector of Schools. This Court disposed of the writ application on 5-2-1996 with the direction to the Inspector of Schools to consider the question of approval of the petitioner's appointment keeping in view the earlier decision in OJC No. 2503 of

1990, as well as the Circular governing the field. Pursuant to the said direction the Inspector of Schools has taken the decision and communicated the same as per Annexure-4.

3. The Inspector of Schools has refused to accord approval to petitioner's appointment basing on the yardstick of the year 1992 which provides inter alia, that if the roll strength of the school is more than 500 then it would be entitled to a Fourth Peon (Duftary). Sri Dash contends that the inspector of Schools fell into error in taking 1992 yardstick into consideration. He contends that by the time of petitioner's appointment, the yardstick formulated in 1981 was in vogue and the inspector of Schools should not have taken into consideration the yardstick of 1992 while dealing with the case of petitioner's approval. We find sufficient force in the contention of Sri Dash.

4. As a consequence we quash the order dated 9-5-1996 of the Inspector of Schools and direct him to approve the petitioner's appointment as Fourth Peon as per the recommendation of the Headmistress dated 20-7-1993 (Annexure-2), Ordinarily we would have remitted the matter to the Inspector of Schools, but we are constrained to pass this order because of the fact that the petitioner, a Class-IV staff of the institution had to approach this Court twice because of pedantic view taken by the Inspector in the matter. The writ application is allowed. The Inspector of Schools is directed to comply with this order within two months from the date of receipt of this order.

5. Requisites for communication of this order will be filed within three days.