
(2023) 04 OHC CK 0208
In the Orissa High Court
Case No : Writ Petition (C) No.26508 Of 2017

Swetapadma Samal

APPELLANT

Vs

State Of Odisha & Ors

RESPONDENT

Date of Decision : 21-04-2023

Acts Referred:

Citation : (2023) 04 OHC CK 0208

Hon'ble Judges : Dr. B.R. Sarangi, J;M.S.Raman, J

Bench : Division Bench

Advocate : B. Routray, J. Biswal, A.K. Mishra

Judgement

1. This matter is taken up through hybrid mode.
2. Heard Mr. B. Routray, learned Senior Counsel along with Mr. J. Biswal, learned counsel appearing for the petitioner and Mr. A.K. Mishra, learned Additional Government Advocate appearing for the State-opposite parties.
3. It is a matter of regret that in spite of order dated 20.04.2022 passed by this Court, no instruction is forthcoming from the side of the State-opposite parties. On 20.04.2022, this Court passed the following order:
"This matter is taken up through hybrid mode.
2. On the basis of the additional affidavit filed by the petitioner, Mr. B.P.Tripathy, learned Addl. Government Advocate wants to take instruction in the matter.
3. It is also admitted by Mr. B.Routray, learned Senior Counsel for the petitioner that exactly similar benefit has been extended to the similar situated person by the apex Court in the case of Habib Khan v. State of Uttarakhand and others reported in (2019) 10 SCC 542.
4. Call this matter after two weeks."

On 11.05.2022, this Court passed the following order:

"This matter is taken up through hybrid mode.

2. Mr. B.P.Tripathy, learned Addl. Government Advocate seeks time to comply the order dated 20.04.2022.

3. Call this matter after ensuing summer vacation."

On 22.06.2022, this Court passed the following order:

"This matter is taken up through hybrid mode.

2. Mr. A.K. Mishra, learned Addl. Government Advocate seeks some time to obtain instruction on the additional affidavit filed by the petitioner.

3. Call this matter after two weeks."

On 19.07.2022, this Court passed the following order:

"This matter is taken up through hybrid mode.

2.Mr. S.N. Nayak, learned Additional Standing Counsel seeks time to comply with the Order dated 11.05.2022 and 22.06.2022.

3. Put up this matter after eight weeks."

4. In fact, four adjournments have been granted in this case for obtaining instructions, but still then instruction is not forthcoming. As it appears, to give effect to the orders of this Court, though learned Additional Government Advocate has made correspondence to the Under Secretary to Govt., Works Department, Odisha, vide letters dated 23.06.2022 and 20.07.2022, but no step has been taken at his end. Learned Additional Government Advocate, vide letter dated 23.06.2022, had stated as follows:

"The aforesaid writ petition was listed before Hon'ble Justice Dr. B. R. Sarangi and Justice S. K. Mishra on 22.06.2022 and while adjourning the matter, the Hon'ble Court has directed the State Counsel to file reply to the additional affidavit filed by the petitioner within two weeks.

Therefore, you are requested to come to this office along with parawise comments to the additional affidavit filed by the petitioner and all relevant records for filing of reply to the additional affidavit on or before 04.07.2022 positively as directed by the Hon'ble Court."

Learned Additional Government Advocate, vide letter dated 20.07.2022, had stated as follows:

"The aforesaid writ petition was listed before Hon'ble Justice Dr. B.R.Sarangi and Justice S.K.Mishra on 19.07.2022 and the Hon'ble Court has been pleased to adjourn the matter to next week with a direction to file reply to the additional affidavit filed by the petitioner in the meantime as a last chance.

Therefore, you are requested to come to this office alongwith parawise comment

to the additional affidavit filed by the petitioner and all relevant records for filing of reply to the additional affidavit on or before 25.07.2022 positively as directed by the Hon'ble Court, failing which adverse order will be passed in this case on the next date of hearing."

In spite of the above communications made, the Under Secretary to Govt., Works Department, Odisha, has not complied with the same. Today, when the matter is taken up, learned Additional Government Advocate sought time to comply with the orders dated 20.04.2022, 11.05.2022, 22.06.2022 and 19.07.2022. Therefore, this Court takes note of the matter very seriously, as it relates to non-furnishing of the instructions required for compliance of the orders of the Court. Thereby, this holds that the action of the authority amounts to causing obstruction in the smooth dispensation of justice and, therefore, he is liable to be punished under the Contempt of Courts Act.

5. In view of such position, this Court directs the Under Secretary to Govt., Works Department, Odisha to appear in person before this Court on 26.04.2023 and file show-cause as to why he shall not be punished under the provisions of the Contempt of Courts Act for causing obstruction in the course of justice due to non-furnishing of instructions.

6. Put up this matter on 26.04.2023.

7. A free copy of this order be handed over to the learned Additional Government Advocate for compliance.

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