

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P. (C) No.12048 of 2009

Gopabandhu Panda

.... **Petitioner**
Mr.R.Prusty, Advocate

Versus

1.State of Orissa
2.Director of Elementary Education,
Orissa, Bhubaneswar
3.District Project Co-ordinator,
Sarbasikhya Abhiyan, Cuttack
4.Collector-cum-Chief Executive Officer,
Zilla Parishad, Cuttack
5. President, Chinapatana IGS Centre,
Banamalipur

.... **Opposite Parties**

Mr. S.N.Mohapatra, Standing Counsel,
School & Mass Education Department

CORAM:
JUSTICE SAVITRI RATHO

ORDER
28.09.2022

Order No.

21.

(Through hybrid mode)

1. This writ application has been filed with a prayer to issue appropriate writ to the opposite parties to recommend the name of the petitioner for appointment as Gana Sikhayak in any Upper Primary School under the Cuttack Education District declaring the order dated 6.1.2009 passed by the opposite party No.4 under Annexure-3 as illegal, arbitrary, unjust and unreasonable in the eyes of law and to quash the same.

2. Counter affidavit has been filed by the Opp party Nos.3 and 4 (District Project Co-ordinator, Zilla Parishad, Cuttack and the Collector-cum-Chief Executive Officer, Zilla Parishad, Cuttack respectively) and in response to the rejoinder filed by the petitioner, they have filed an additional counter affidavit. Pleadings being complete, the case is taken up for final disposal.

3. The case of the petitioner is that he was given appointment as an Education Volunteer in Chinapatna Centre under Jamadeipur Gram Panchayat under Tigiria Block on execution of an agreement on 30.10.2004 between the petitioner and the President, Chinapatna EGS Centre, Banamalipur. Since the date of his engagement as Education Volunteer, he has been discharging his duty uninterruptedly and diligently to the best satisfaction of the authorities with a monthly honorarium of Rs.1,000/-. While he was working as such, due to upgradation of the EGS centre to a Primary School, he was retrenched. In accordance with the policy decision of the Government the other Education Volunteers working in different Centres were recommended by the authorities for engagement as Gana Sikhyaka in the Primary Schools, but though the petitioner fulfils all the eligibility criteria, his name was not recommended for the said post for which he had filed W.P. (C) No.14407 of 2008. The writ application had been disposed of by order dated 01.10.2008, observing that the grievance of the petitioner involved disputed questions of fact which could not be adjudicated under writ jurisdiction. But liberty was granted to the petitioner to file a representation within two weeks before the Collector, Cuttack highlighting all his grievances, with a further direction for its disposal by the Collector in accordance with law. The said representation having

been rejected vide order dated 06.01.2009 by the Collector, the petitioner has filed the present writ application.

4. In the counter affidavit filed by the opposite party Nos. 3 and 4, it has been inter alia stated that Gana Sikhyaka engagement is a rehabilitation package extended to Education Volunteers engaged under the Education Guarantee Scheme who were subsequently disengaged and it had been clarified Vide Memo No.14795 dated 21.07.2008 that Education Volunteers engaged as per the selection process under the guidelines of EGS and approved by the Collector – cum CEO Zilla Parishad, under SSA are to be engaged as Gana Sikhyaka. The petitioner was engaged as per the sweet will of the President, Village Education Committee, Chinapatna EGS and the engagement of the petitioner as Education Volunteer Chinapatna EGS Centre had never been approved by District EGS Committee Cuttack or the Collector-cum-CEO, Zilla Parishad, he cannot be engaged as Ganasikhyaka and the Collector has given cogent reason while rejecting his representation dated 25.10.2018, vide order dated 06.01.2009, the same does not call for any interference.

5. A rejoinder has been filed denying the averments in the counter affidavit that the petitioner was never appointed as Gana Sikhyaka and reiterating that the petitioner had been appointed as Gana Sikhyaka at Chinapatna E.G.S Centre pursuant to an agreement dated 30.10.2004 for which it could not be said that his engagement was a self made one. It has been admitted in the rejoinder that the proposal for engagement of EVS volunteer had not been sent due to some disturbance and it was sent on 20.08.2005 and this proposal should have been accepted and approved.

6. In the additional counter affidavit, it has been stated that the formation of the Village Education committee for the Chinapatana EGS

Centre had not been approved by the D.P.O. (District Project Officer in short “D.P.O”) re-designated as District Project Coordinator and the proposal for approval was never furnished by the Sub-Inspector of Schools Tigiria. It has also been stated at paragraph-5 that in his application dated 24.07.2008, the petitioner had asserted that he alongwith one Prabhakar Jena had been engaged w.e.f 01.03.2004 and had furnished a photocopy of the order engagement order but in paragraph-3 of the writ petition it had been averred that on execution of agreement dated 30.10.2004, he was engaged. It has thereafter been reiterated that, as the engagement of the petitioner was not in accordance with the rules, for which the impugned order is legal and justified.

7. Mr. Prusty, learned counsel for the petitioner submits that the petitioner had been engaged and worked as an Education Volunteer and had been retrenched when the EGS centre was upgraded to a primary school. So as per guidelines, his name should have been recommended for appointment as a Gana Sikhyakaa as he fulfilled the eligibility criteria. But while other similarly Education Volunteers of the District have been engaged as Gana Sikhyakaks, the petitioner has been discriminated. He further states that the objections raised by the Opp. Parties Nos.3 and 4 regarding non-approval of the Village Education Committee, should not be used against him as he cannot be blamed for the same.

8. Mr. Mohapatra learned Standing Counsel for School and Mass Education Department submits that no ground has been made out for interfering with the impugned order and there is no merit in this writ application, which is liable to be dismissed on the following grounds:

a) The petitioner and one Pravakar Jena had approached this Court earlier in W.P.(C) No.14407 of 2008 and W.P. (C) No.14408 of 2008 respectively with similar prayer. This Court did not entertain the writ application stating that they involved disputed question of fact but granted liberty to approach the Collector by filing representation. The Collector has rejected the representations vide order dated 06.01.2009. W.P.(C) No. 12049 of 2009 filed by Pravakar Jena challenging the same impugned order has been withdrawn vide order dated 20.01.2016.

b) The petitioner had not been engaged as Education Volunteer in Chinapatna EGS Centre on the approval of the District EGS Committee.

c) The Village Education Committee which purportedly engaged him did not have the authority to do so as it had not been approved by the District Project Officer.

c) More than thirty two years have elapsed since eligible persons were engaged as Gana Sikhyakaks.

9. After hearing the learned counsels and perusing the records, I find that there is neither any document nor even any averment that the Village Education Committee had been approved by the DPO and that the engagement of the Petitioner as Education Volunteer in Chinapatna EGS centre had even been approved by the District EGS Committee Cuttack or the Collector-cum-CEO, Zilla Parishad. There is also no material on record to satisfy this Court that the petitioner had worked as an Education Volunteer, undergone training or received honorarium at any time for discharging his duties as Education Volunteer. I, therefore do not find any illegality or impropriety in the impugned order dated 06.01.2009 passed by the opposite party No.4 under Annexure-3 so as to warrant interference by this Court.

10. Hence, the writ application, being devoid of merit, stands dismissed. There shall be no order as to costs.

11. Urgent certified copy of this order be granted as per rules.

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Savitri Ratho
Judge

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