

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.A. No. 7 of 2019**

***Dr. Rabinarayan Sahoo***

....

***Appellant***

Mr. Paresh Kumar Sahoo, Advocate

*-versus-*

***State of Orissa and others***

....

***Respondents***

Mr. M.K. Khuntia

Additional Government Advocate

**CORAM:  
THE CHIEF JUSTICE  
JUSTICE M.S. RAMAN**

**ORDER  
10.11.2022**

**Order No.**

05. 1. The short question that arises for consideration here is whether the learned Single Judge was justified in relegating the Appellant to the Educational Tribunal for redressal of the grievance voiced in the writ petition viz., that the Appellant should be extended the benefit of UGC scale of pay as applicable to the Degree College Lecturers in the Non-Government Aided Colleges at the revised rate from 1991 onwards. *Inter alia* a challenge was raised to an order dated 3<sup>rd</sup> February, 2018 passed by the Director, Higher Education, Orissa, Bhubaneswar declining that relief to the Appellant.
2. In the impugned order, the Learned Single Judge has after referring to Section 24-B of the Orissa Education Act come to the conclusion that the expression in Section 24-B (1), which reads

“relating to or connected with the eligibility, entitlement, payment or non-payment of Grant-in-Aid” would cover the dispute raised by the Appellant as well.

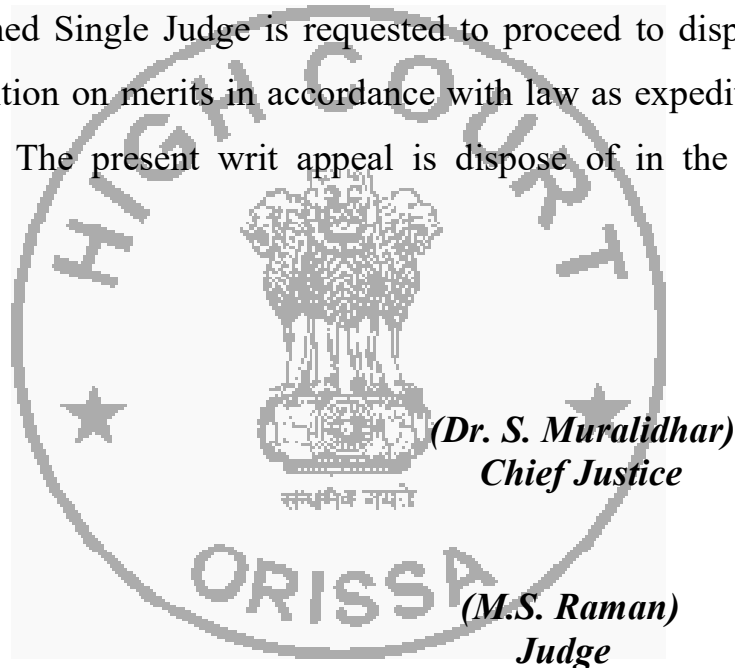
3. Learned counsel appearing for the Appellant, however, points out that the issue raised by the Appellant does not concern “payment or non-payment of Grant-in-Aid” at all. His specific plea is that extension of the benefit of the UGC pay scale to the Appellant is not an issue concerning the providing of ‘Grant-in-Aid’. He points out that the High Court in the first round of litigation, in fact entertained the Appellant’s W.P.(C) No.19077 of 2017 filed by the present Appellant and by an order dated 13<sup>th</sup> September, 2017 required the Director, Higher Education to take a decision on the Appellant’s representation dated 19<sup>th</sup> December, 2016. In fact, it is pursuant to that the impugned order dated 3<sup>rd</sup> February, 2018 was passed.

4. Having heard learned counsel for the parties, the Court is of the view that the learned Single Judge overlooked the fact that it was the second round of litigation arising out of an earlier order of the High Court which not only entertained the writ petition filed by the Appellant but also passed the aforementioned order requiring the Respondent No.2 to dispose of the Appellant’s representation. Consequently, the writ petition could not have been dismissed at the threshold without adjudicating the matter on merits.

5. For the aforementioned reasons, the impugned order dated 10<sup>th</sup> December, 2018 passed by the learned Single Judge is hereby set

aside and W.P.(C) No.15984 of 2018 is restored to the file of the learned Single Judge in the Roster Bench, where it will be listed for directions on 2<sup>nd</sup> January, 2023. By 12<sup>th</sup> December, 2022 the Director, Higher Education should have filed a para-wise reply to the writ petition and rejoinder thereto, if any, should be filed by the present Appellant (Writ Petitioner) before the date of listing of the writ petition, i.e., 2<sup>nd</sup> January, 2023. No further time will be granted to either party for the above purpose.

6. The learned Single Judge is requested to proceed to dispose of the writ petition on merits in accordance with law as expeditiously as possible. The present writ appeal is dispose of in the above terms.



*S. Behera*