

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.12507 OF 2003

Surendra Kumar Sahu & anr.

....

Petitioners

Mr.D.P.Mohanty, Adv.

-versus-

Managing Director, IDCO & ors.

....

Opposite Party(s)

Mr.S.P.Panda, AGA for O.Ps.2 to 5

CORAM:

JUSTICE BISWANATH RATH

ORDER

24.8.2022

Order
No.

6.

I.A.NOS.1624/19, 1623/19, 1622/19, 1620/19, 10866/2009 & 5439/19

1. Heard Mr.D.P.Mohanty, learned counsel for the Petitioners and Mr.S.P.Panda, learned A.G.A. for the
2. Considering the submissions made, prayer for substitution stands allowed. Cause Title be corrected accordingly.
3. I.As. stand disposed of.

(Biswanath Rath)
Judge

W.P.(C) NO.12507 OF 2003

7.
 1. Heard learned counsel for the Parties. In spite of notice and appearance of a set of Counsel, nobody is appearing for the contesting O.P.
 2. The Writ Petition involves a challenge to the orders at Annexure-2 & 3 being passed by the appellate authority as well as

revisional authority in exercise of their powers under the OHC & PFL Act, 1972, herein after called as “the Act, 1972”.

3. Short facts involved herein and pleaded in the Writ Petition appear to be the Petitioners at the initial stage involved in a 37(1) of the Act proceeding, there is an order for remand of the proceeding to the original authority, as a consequence, the original proceeding, vide Annexure-1 was allowed in favour of the Petitioners. Parties aggrieved preferred Consolidation Appeal No.42/1997. It is alleged in the hearing of the Appeal, the matter was clubbed with Consolidation Appeal No.43/1997 and both the Appeals were decided jointly. There is serious allegation that the Appeal involved is decided firstly in absence of the Petitioners being made parties to Consolidation Appeal No.43/1997 and secondly there was even no supply of materials appearing in the said Appeal for at least having a proper contest by the present Petitioners. Through the observation of the appellate authority, it has been brought to the notice of this Court by the learned counsel for the Petitioners that both the Appeals were decided together and while allowing the Appeals, the appellate authority strangely enough depended wholly on the materials in Appeal No.43/1997. The Petitioners being aggrieved preferred Revision. It is alleged, the revisional court did not consider the above allegation of the Petitioners and committed the same error.

Mr.D.P.Mohanty, learned counsel for the Petitioners thus requested this Court for a fresh decision by the appellate authority depending on the materials available in Appeal No.43/1997 and for the interest of justice, the Petitioners should have been provided with materials involving Consolidation Appeal No.43/1997 and the Appeal should be freshly disposed of providing opportunity of hearing to the Petitioners also involving the materials available in the said Appeal.

4. Mr.S.P.Panda, learned Additional Government Advocate, taking this Court to the Court to the observations both by the appellate authority as well as the revisional authority attempted to justify the impugned orders and requested this Court for dismissing the Writ Petition for having no proper ground. Mr.Panda, however, did not dispute that the appellate authority as well as the revisional authority have proceeded in concluding the proceeding much dependent on the documents available in Appeal No.43/1997, which never involved the Petitioners.

5. Considering the rival contentions of the Parties and while keeping in view the allegations made herein, this Court on perusal of the appellate order finds, the findings in the Appeal is much dependent on the documents available in Consolidation Appeal No.43/1997, which never involved the present Petitioners. Further even though such a question was raised by the Petitioners in the

Revision, the revisional authority did not attend to such question and again decided the Revision in confirmation of the observations of the appellate authority deciding the matter based on surprise documents. It is keeping this in view and for mechanical disposal of the Appeal as well as the Revision, this Court finds, both the impugned orders, vide Annexure-2 & 4 passed by the appellate authority as well as revisional authority not sustainable in the eye of law.

6. Accordingly, this Court sets aside both the impugned orders, vide Annexure-2 & 4. However for there is requirement of fresh hearing of the Appeal, this Court while remitting the Consolidation Appeal No.42/1997 to the Deputy Director, Consolidation Range-II, Cuttack directs for re-disposal of the Appeal involving the Petitioners and after providing the documents appended to the Appeal Memorandum as well as the documents appended to Consolidation Appeal No.43/1997. For the Writ Petition disposed of in non-cooperation of the contesting Opposite Party in the fresh disposal of the Appeal, the appellate authority shall do well in issuing notice to the appellant therein and disposing of the Appeal accordingly.

(Biswanath Rath)
Judge

M.K.Rout