

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.15052 of 2009

Sudhir Digal

....

Petitioner(s)

Mr.S.Senapati, Adv.

-versus-

State of Orissa & Ors.

....

Opp.Party(s)

Mr.S.Ghose, AGA

CORAM:

JUSTICE BISWANATH RATH

ORDER

13.12.2022

Order

No.

4.

1. Heard learned counsel appearing for the parties.

2. This writ petition involves the following prayer:

“Therefore, it is prayed that the Hon’ble Court may be pleased to issue Rule NISI to the Opp. Parties as to why the Order under Annexure-6 issued on the basis of the order of the State Level Scrutiny Committee shall not be quashed on the grounds stated in the petition and the protection against the coercive action of the Opp. Parties shall not be extended to the petitioners and the Opp. Parties showing no cause or insufficient cause the said Rule Nisi be made absolute. The writ petition may be allowed.

And for which act of kindness the petitioners shall as in duty bound and ever pray.”

3. Undisputedly, this writ petition involves a challenge to the order at Annexure-6 passed by the State Level Scrutiny Committee involving an allegation of involvement of a fake certificate case. Mr. Senapati, learned counsel appearing for the petitioner bringing this Court to the dates of events submitted that there is no dispute that the petitioner was provided with a notice to appear before the Scrutiny Committee on 04.04.2009 to adduce his evidence and also place his submissions. It is alleged, unfortunately such application was served on 08.04.2009. It is in the meantime, in another development, petitioner challenges the proceeding in W.P.(C).No.4587 of 2009 where petitioner stated to have obtained an interim stay of the further proceeding pending before the Scrutiny Committee. It is alleged that in spite of such stay order there and in spite of no proper service of notice, the proceeding involving Fake Certificate Case No.5 of

2009 has been disposed of in passing an order against the petitioner. It is in the above circumstance, prayer is made for interfering in the impugned order.

4. To the contrary, Mr.Ghose, learned Additional Government Advocate taking this Court to the reason assigned contends that there is justified order passed by the Committee requiring no interference.

5. Considering the rival contentions of the parties, this Court finds from the order-sheet observes that the case involved is disposed of in absence of the party aggrieved by such order. Further, for the clear pleading that notice issued to the petitioner to appear before the State Level Scrutiny Committee on 04.04.2009 also served on the petitioner on 08.04.2009 after the expiry of the date. In such event, this Court finds there required a fresh notice to the petitioner for final hearing. From the order, this Court here again finds in entertaining the writ petition in W.P.(C).No.4587 of 2009, by order dated 20.07.2009 there was direction for not passing the final decision in the proceeding involved. In the meantime, W.P.(C).No.4587 of 2009 is found to be infructuous and has been disposed of.

6. Be that as it may, for there is no proper opportunity of evidence and hearing to the petitioner, this Court on this ground alone interferes in the impugned order at Annexure-6 and sets aside the same. For there is requirement of fresh hearing of the Fake Certificate Case No.5 of 2009, this Court directs the petitioner to appear before the State Level Scrutiny Committee on 28.12.2022 along with is objection and take the date of hearing as there shall be fresh disposal of such proceeding in the involvement of the petitioner. It is made clear that interim order in W.P.(C).No.4587 of 2009 lapsed for dismissal of the aforesaid writ petition. As such there is no obstruction in completing the hearing exercise in the proceeding involved, which may be

completed within a period of two months from the date of production of certified copy of this order.

7. This writ petition stands disposed of with the observation and direction made hereinabove.

(Biswanath Rath)
Judge

Sks

