

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.1365 of 2020

Pritam Kumar Panda

....

Petitioner

**Mr. A.P.Bose
Advocate**

-versus-

State of Odisha & others

....

Opposite Parties

**Mr. N.K.Praharaj,
Govt. Advocate**

CORAM:

JUSTICE SASHIKANTA MISHRA

**ORDER
12.8.2022.**

Order No.

06.

1. This matter is taken up through hybrid mode.
2. Heard Mr. A.P.Bose, learned counsel for the Petitioner, and Mr. N.K.Praharaj, learned Addl. Government Advocate for the State.
3. An advertisement was issued on 10th July 2018 by the Collector, Bargarh (Opposite Party No.2) inviting applications for different posts in three upgraded High Schools and other existing High Schools on contractual basis. The Petitioner applied for the post of PET. As per the said advertisement, out of five vacant posts of Physical Education Teacher (PET), one was reserved for S.T., two for unreserved women and two for unreserved candidates. The Petitioner is an unreserved

candidate. In the selection, the Petitioner's position was at Sl. No.158 as per Draft Common Merit List published with remarks 'UR waiting'. Since there are two posts for unreserved candidates and one person was already engaged and the Petitioner was kept in waiting list, he has approached this Court seeking the following relief:-

"The Petitioner therefore prays that your Lordship's may graciously be pleased to admit the writ application, call for the records from the opposite party nos.2 and 3 and after hearing the parties issue a writ/writs in the nature of certiorari/mandamus directing the opp. party nos.2 and 3 to issue appointment order for the post of PET as advertised under Annexure-1 pursuant to the list under Annexure-2 at the earliest for the ends of justice."

4. The Opposite Party Nos.2 and 3 have filed a counter affidavit, wherein it has been, inter alia, stated as under:-

"That as regards the averments made in Paragraph-1 of the writ petition, it is humbly submitted that advertisement had been made by Opp. Party No.2 which is cited at Annexure-1 of the writ petition inviting applications for selection and appointment to 5 nos. of posts were meant for unreserved category, one post meant for ST category and 2 posts meant for women in unreserved category. The writ petitioner has applied for the post in Unreserved category vacancy."

Total 4 nos. of candidates including the writ petitioner appeared for verification of documents."

After verification, the Opp.Party No.2 has issued appointment order in respect of 2 nos. of posts meant for women unreserved category. One post of Physical Education Teacher (PET) meant for ST category has not filled up due to non-availability of suitable candidate. Out of two posts of PET meant for unreserved category, appointment has been provided to a candidate who came first in the selection list. Another post of PET under UR category could not be given to any candidate, since an O.A. case bearing No.3239/2018 filed by one Sri Amit Ku. Maharana who has also applied for the post PET in UR category is pending before the Hon'ble OAT, Bhubaneswar.

That as regards the averments made in Paragraph-4 of the writ petition, it is humbly submitted that although the name of the writ petitioner has been kept in the waiting list, but since the claim for the same post of PET meant for UR category is sub-judiced before the learned OAT, Bhubaneswar, filling up such post will affect the interest of the said Sri Amit Kumar Moharana. Therefore, in order to avoid multiplicity of litigations, it has been decided to fill up such post only after disposal of the O.A. No.3239/2018."

5. The Petitioner has also filed a rejoinder stating that he had secured 199.11 marks whereas the said Amit Kumar Moharana (Petitioner in the O.A. Case) had secured 190.17 marks.

6. In course of hearing Mr. A.P.Bose, has brought to the notice of this Court the fact of disposal of the O.A. filed by Amit Kumar Moharana. Be it noted here that the said O.A. was transferred from the erstwhile Tribunal to this Court and registered as W.P.C.(OA) No.3239/2018. By order dated 8th

April, 2022, the said Writ Petition was permitted to be withdrawn. A copy of the order has been filed by Mr. Bose, which is on record.

7. From the averments made in the counter affidavit quoted hereinabove, it is evident that the post was not filled up only on the ground of pendency of the O.A. filed by Amit Kumar Moharana purportedly to protect his interest. Since the O.A. (subsequently registered as Writ Petition before this Court) has already been disposed of, there appears to be no further impediment in the matter of issuing appointment order in favour of the Petitioner.

8. In view of such development, nothing further remains to be decided in this Writ Petition, which is therefore, disposed of with a direction to the Collector, Bargarh (Opposite Party No.2) to take into account the disposal of the case filed by the said Amit Kumar Moharana and to do the needful within a period of three weeks from the date of communication of this order or on production of certified copy thereof by the Petitioner.

9. The Writ Petition is disposed of accordingly.

10. Urgent certified copy of this order be granted on proper application.

AKB

(Sashikanta Mishra)
Judge

