

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.13759 OF 2010

Balabhadra Mahato

....

Petitioner

Mr.P.K.Jena, Adv.

-versus-

Bhugulu Minz & ors.

....

Opposite Party(s)

Mr.G.N.Sahu, Adv. for O.P.1

Mr.S.Mishra, ASC

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
15.9.2022**

Order No.

4.
 1. Heard learned counsel for the Parties.
 2. The Writ Petition involves a serious allegation of disposal of R.A. No.22/2003 by order dated 30.3.2005 by the A.D.M., Sundargarh clearly recording that there is no cooperation of either side and thereby confirming the lower Authority's order.
 3. Taking this Court to the impugned order, Mr.Jena, learned counsel for the Petitioner contended that even in absence of Parties, there was no obstruction for the Authority in looking to the grounds in the Appeal and dealing with such grounds giving reasonings and thus its conclusion.

4. Mr.Sahu, learned counsel for O.P.1 appearing for the contesting O.P.1 seriously objected to the contentions raised by the learned counsel for the Petitioner.

5. Mr.Mishra, learned Additional Standing Counsel pointed out from the impugned order that the order is an outcome of non-cooperation of both sides and thus no fault can be found with the Appellate Authority. Mr.Mishra submitted, petitioner if suffers , it is only on its own account.

6. Considering the rival contentions of the Parties, this Court from the impugned order dated 30.3.2005 finds, there is mechanical disposal of the Appeal and contrary to legal position holding the Appeals if filed required to disposal on merit, as the Appeal Memorandum already contains ground. For the opinion of this Court, since an Appeal involved therein, nothing prevented the Appellate Authority at least to find through the grounds and taking a lawful decision in the Appeal attending to the grounds. In the circumstance, this Court finds, the appellate order is not in accordance with law.

7. In the process, this Court sets aside the order dated 30.3.2005, vide Annexure-5. However, for there is requirement of fresh disposal of the Appeal, this Court remanding the appeal

proceeding to the A.D.M., Sundargarh, O.P.2 for re-hearing of the Appeal and giving a fresh disposal in accordance with law. For the matter decided in presence of the contesting O.P.1, both the Petitioner and O.P.1 are directed to appear before the Appellate Authority along with a copy of this order on 29.9.2022 and take a date of further hearing of the Appeal.

8. The Writ Petition stands disposed of accordingly.

M.K.Rout



(Biswanath Rath)
Judge