

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.1764 of 2022

Subimal Das

.... ***Petitioner***
Mr.Bimbisar Dash, *Advocate*

-versus-

State of Odisha and others

.... ***Opposite Parties***
Mr.D.Mund, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

10.02.2022

Order No.

2. 1. This matter is taken up through Hybrid arrangement (virtual/physical mode).
2. Heard learned counsel for the parties.
3. The present writ application has been filed by the Petitioner challenging the action of the Bhadrak Law College in issuing notice dated 6th December, 2021 under Annexure-22 asking the Petitioner to show cause as to why action shall not be taken against him on the grounds stated therein. Prior to that there was a dispute wherein the Petitioner was terminated by showing him as an ad hoc/temporary employee of the College. As against that, the Petitioner approached the appellate authority i.e., the Director by filing an appeal. The Director (appellate authority) by a reasoned and speaking order has arrived at a finding that the termination is illegal. Accordingly, the Petitioner submitted his joining report before the College authority. The College authority never accepted the joining report of the Petitioner taking various pleas including the plea that the order of the

appellate authority was not communicated to them. Thereafter they have issued the impugned notice under Annexure-22 asking the Petitioner to show cause as to why action shall not be taken against him. Being aggrieved by that notice dated 6th December, 2021, the writ application has been filed.

4. Pursuant to the notice dated 6th December, 2021 under Annexure-22 the Petitioner has filed his show cause reply. It is submitted by the learned counsel for the Petitioner that the proceeding has come to an end and the Petitioner has been terminated from service by order dated 24.12.2021 under Annexure-25. Challenging the order under Annexure-25, the present writ application has been filed. It is further submitted that the learned counsel for the Petitioner that the impugned order under Annexure-25 has been passed in a manner in following the procedure which is unknown to law.

5. Mr. Mund, learned Additional Government Advocate submits that the order under Annexure-25 is an appealable order. Therefore, the Petitioner should approach the appellate authority. He further submits that the writ application is not maintainable since there is an alternative remedy provided under the Statute.

6. Having heard learned counsel for the parties, this Court directs the Petitioner to file an appeal by filing a properly constituted appeal memo before the appellate authority i.e., the Director, Higher Education within two weeks from today along with a certified copy of this order. In the event such an appeal is filed, the same shall be considered in accordance with law by providing an opportunity of hearing to the Petitioner and shall be disposed of by a speaking and reasoned order.

7. The decision so taken on the appeal shall be communicated to

the Petitioner within 10 days thereafter. This Court has however, expressed no opinion on the merits of the case. It is open for the authority to take a decision in accordance with law and considering the materials placed before him by either side.

8. With the aforesaid observation the writ application stands disposed of.

9. Issue urgent certified copy as per Rule.

RKS

(A.K. Mohapatra)
Judge

