

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No. 21824 of 2012**

***Bipin Bihari Samantray &  
others***

.....

***Petitioners***

*Mr.L.K.Maharana Advocate*

**Vs.**

***Union of India & others***

.....

***Opposite Parties***

*Mr. P.R.Barik, Advocate for B.S.N.L.*

**CORAM:**

**DR. JUSTICE B.R. SARANGI**

**Mr. JUSTICE G. SATAPATHY**

**ORDER**

**14.09.2022**

**Order No.**

16.

This matter is taken up through hybrid mode.

2. Heard Mr. L.K. Maharana, learned counsel for the petitioners and Mr. P.R. Barik, learned counsel appearing for the opposite party-B.S.N.L.

3. The petitioners have filed this writ petition challenging the order dated 29.06.2012 passed in O.A. No. 195 of 2011, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack has directed the management of B.S.N.L. to consider the case of the petitioners, who were working as Casual Labourers, for regularization taking into consideration their long stretch of service, as expeditiously as possible, whereas the management of B.S.N.L. considered the case of the petitioners and rejected in the impugned orders with regard to grant of temporary status and, as such, the tribunal had no option but to hold that in compliance of the order of this Court the opposite parties are to consider and pass appropriate order on the prayer of the petitioners for regularization, which they should do within a period of 120 days.

4. Mr. L.K. Maharana, learned counsel for the petitioners contended that challenging the order dated 29.06.2012

passed in O.A. No. 195 of 2011, the petitioners have approached this Court by filing the present writ petition. During pendency of the writ petition, the opposite parties have considered the case of the petitioners and rejected their claim by order dated 5<sup>th</sup> October, 2012 vide Annexure-12. It is further contended that while rejecting the claim of the petitioners, opportunity of hearing was not given to the petitioners and their claim was rejected, particularly when the writ petition is pending before this Court. Therefore, challenging the order passed by the tribunal on 29.06.2012, the petitioners have filed this writ petition and also filed application for amendment incorporating the order dated 05.10.2012, which was allowed by this Court.

5. Mr. P.R.Barik, learned counsel appearing for the B.S.N.L. contended that since the order dated 29<sup>th</sup> June, 2012 passed by the Tribunal in O.A. No. 195 of 2011 has already been complied with by disposing of the grievance made by the petitioners within 120 days, may be rejected or allowed, that question is to be adjudicated by the tribunal instead of filing an application for amendment incorporating the order passed by the authority in the present writ petition. It is further contended that even though this Court passed interim order subject to outcome of writ petition, but once fresh cause of action arises for the petitioners, it is incumbent upon the petitioners to file appropriate application challenging the same on the ground which now the petitioners are advancing before this Court in the present writ petition.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that in compliance of the order dated 29<sup>th</sup> June, 2012 of the

Tribunal passed in O.A. No. 195 of 2011, the opposite parties have considered the grievance of the petitioners and disposed of the same which has been incorporated in the present application by way of amendment by annexing Annexure-12 to the writ petition. But that itself cannot be entertained because of the fact that the order passed by the authority allowing or rejecting the claim of the petitioners is the matter to be adjudicated by the Tribunal. Therefore, if the order of the Tribunal dated 29<sup>th</sup> June, 2012 has been complied with by B.S.N.L., it is open to the petitioners to challenge the same in accordance with law. Instead of doing so, the petitioners cannot straightaway come to this Court invoking extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India, to quash the so called order passed by the BSNL.

7. In view of the above, the writ petition stands disposed permitting the petitioners to assail the order dated 5<sup>th</sup> October, 2012 passed by the authority, which has been annexed as Annexure-12 to the writ petition in accordance with law, if they are so advised.

**(DR. B.R. SARANGI)**  
**JUDGE**

**(G. SATAPATHY)**  
**JUDGE**