

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 25669 of 2011

Ganeswar Kampa

....

Petitioner

Mr. P.K. Sahoo, Advocate

-versus-

***Chairman, Regulated Market
Committee, Bolangir and
others***

....

Opposite Parties

Mr. S.N. Pattnaik, AGA

CORAM: JUSTICE V. NARASINGH

ORDER
31.10.2022

Order No.

16.

1. This matter is taken up through hybrid mode.
2. Learned counsel for the petitioner is permitted to implead Director of Agriculture (Marketing), Odisha, Bhubaneswar as Opposite Party No.4 in Court Today.
3. Heard learned counsel for the petitioner and Mr. Pattnaik, learned Additional Government Advocate for the Opposite Party No.2.
4. There is no appearance on behalf of the Opposite Party Nos.1 and 3.
5. The petitioner, who was working as a Yardman in Regulated Market Committee, Bolangir, was departmentally proceeded against, on several grounds of charges, which are quoted hereunder for convenience of ready reference.

XXX XXX XXX

1. *Misappropriation of Committee fund.*
2. *Making of false and fabrication of official record*
3. *Un-authorized absence.*
4. *Negligence in duty.*
5. *Disobedience of authority*
6. *Mis-conduct.*

XXX XXX XXX

6. After consideration of his representation, in terms of the earlier directions passed by this Court dated 14.07.2004 in O.J.C No.9977 of 1998, the Chairman RMC, Bolangir has passed the impugned order dated 15.10.2004 at Annexure-6, which is assailed in the present Writ Petition.

7. Counter affidavit has been filed by the Opposite Party No.3-Secretary, Regulated Market Committee Bolengir, Controverting the allegations made in the Writ Petition.

8. In paragraph-12 of the counter affidavit, a stand has been taken that without exhausting the alternative remedy of appeal, petitioner has approached this Court directly. For convenience of ready reference, the assertions in paragraph-12 are culled out hereunder;

“12. That in reply to the averments made in paragraph 14 of the writ application, it is submitted that it is not correct to say that the petitioner had no other alternate and efficacious remedy available to him. It may not be out of place to reiterate that the petitioner has consciously not availed the alternate remedy of filing an appeal before the Director of Agriculture (Marketing), Odisha, Bhubaneswar, notwithstanding the fact that the petitioner, on a previous occasion, has approached the said appellate authority in the year

1987-88, when his services were terminated on the ground of willful and prolonged absence from duty.”

(Emphasized)

9. In view of the specific stand of the Opposite Party that the petitioner has an alternative remedy of preferring an appeal before the Director of Agriculture (Marketing), Odisha, Bhubaneswar, taking into account the submission of the learned counsel for the petitioner that the petitioner, because of his penury, could not approach this Court earlier and is now suffering from diseases because of his advanced age, this Court feels that interest of justice will be subserved if the petitioner is permitted to prefer an appeal before the Director of Agriculture (Marketing), Odisha, Bhubaneswar.

10. Accordingly, it is directed if the petitioner prefers such appeal within six weeks hence before the Director of Agriculture (Marketing), Odisha, Bhubaneswar along with a copy of this order, the said Appellate Authority shall do well to dispose of the appeal within six weeks from the date of receipt of the same independently on its own merits. The fate of such representation may be communicated to the petitioner.

11. With such observations, the Writ Petition stands disposed of.

12. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge