

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.6154 of 2014

Dasarath Pradhan

....

Petitioner

-versus-

State of Odisha

....

Opposite Party

CORAM: JUSTICE S. PUJAHARI

ORDER

17.08.2022

Order

No.

14.

1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner seeking a direction to the learned J.M.F.C., G. Udayagiri to stay the criminal proceeding vide G.R. Case No.67 of 2014 pendign before it till the final decision of the judicial review pending before this Court vide W.P.(C) No.7347 of 2014.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party.
4. The case against the Petitioner is that he found to have obtained a fabricated Scheduled Tribe Certificate, by the State Level Scrutiny Committee constituted for the purpose cancelled such certificate vide order dated 4th January, 2014 passed in

FCC No.73/12. For the said act of the Petitioner, a criminal case has already been initiated against him vide G.R. Case No.67 of 2014. However, the Petitioner in the meanwhile, has challenged such order of State Level Scrutiny Committee before this Court in W.P.(C) No.7347 of 2014 wherein stay stated to have granted vide order dated 10th April, 2014 passed in Misc. Case No.6712 of 2014.

5. In the case of *Asian Resurfacing of Road Agency Pvt. Ltd. & another vrs. Central Bureau of Investigation* (Criminal Appeal No.1375-1376 of 2013 decided on 28.03.2018), a direction was given by the Apex Court that if the order of stay further proceeding was not extended by the higher forum after expiry of six months, the said order deem to have been vacated. In view of the same, the trial court is proceeding in the criminal prosecution launched against the Petitioner.

6. However, in the aforesaid writ petition, no judicial proceeding appears to have been stayed, but order of cancellation of a certificate has been stayed. In the case of *Asian Resurfacing of Road Agency Pvt. Ltd.* (supra) has got no application to such order of stay in the writ petition. When this Court in the aforesaid writ petition has stayed the operation of the very order of cancellation of certificate on the ground that the same was spurious one, the Petitioner has challenged the prosecution launched against him in this petition under Section

482 of Cr.P.C. However, the trial court proceeded in the criminal prosecution in view of the order passed by the Apex Court in the case of *Asian Resurfacing of Road Agency Pvt. Ltd.* (supra).

7. In the aforesaid facts, I am of the considered opinion that until and unless such writ petition is dismissed or stay therein is vacated, the prosecution cannot be said to have foundation to prove its case, inasmuch as the very order that the Petitioner obtained spurious caste certificate is in eclipse by the interim order in the writ petition. In such peculiar facts and circumstances, it is directed to stay further proceeding in G.R. Case No.67 of 2014 pending in the court of J.M.F.C., G. Udayagiri till disposal of the aforesaid writ petition.

8. However, since in the writ petition the aforesaid order is passed, the State, if so likes, shall take all effective steps for early listing of the aforesaid writ petition and disposal of the same, the Registry shall also do the needful for early listing of the same in the assigned Bench.

9. With the aforesaid order, this CRLMC stands disposed of.

(S. Pujahari)
Judge

DA