

AFR

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.148 of 2017

Bhabagrahi Das

....

Appellant

Mr. Aurobindo Mohanty, Advocate

-versus-

***Subhadra Girls' High School and
others***

....

Respondents

Mr. S.K.Dash, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH**

**ORDER
13.10.2022**

Order No.

Chittaranjan Dash, J

02.

1. Challenge in this Appeal is to the judgment dated 9th May, 2017 passed by the learned Single Judge in W.P.(C) No.3738 of 2013 whereby the learned Single Judge quashed the certificate of registration issued in favour of the Appellant on 31st January, 2013 and directed issuance of a fresh certificate of registration taking into consideration the report of the District Education Officer, Kendrapara (DEO) dated 28th September, 2012, the report of the Block Development Officer, Kendrapara (BDO) dated 8th November, 2011 and the enquiry report submitted by the very same officer on 7th August, 2012 and to complete the entire exercise by the Collector, Kendrapara preferably within a period of two months from the date of communication of the judgment and order.

2. The background facts of the case are that Subhadra Girls' High School, Itipur in the district of Kendrapara was established by the educational agency pursuant to the resolution of its general body. Bhabagrahi Das, the Appellant was chosen as the Secretary of the managing committee constituted in the said meeting who tendered resignation subsequently on 31st May 1994 which was accepted in the general body meeting held on 8th July, 1994 in presence of the Appellant. One Samir Ranjan Das was appointed as Secretary of the managing committee pursuant to resolution of the general body dated 8th July, 1994.

3. During his incumbency as Secretary, the said Samir Ranjan Das took steps for obtaining permission for establishment of the school which was allowed by the Minister of School and Mass Education, Orissa, Bhubaneswar in exercise of power under sub-Section 8 of Section 5 of the Orissa Education (Establishment, Recognition and Management of Private High Schools) Rules, 1991 (hereinafter referred to as "the Schools, 1991). On 4th January, 2000 in Appeal No.135 of 1998 temporary recognition was granted in favour of the school from time to time and the students who got admitted to the school appeared the High School Examination conducted by the Board of Secondary Education, Orissa, Cuttack.

4. The Appellant, in the meanwhile, having described himself as the Ex-Secretary of the Managing Committee submitted an application form for approval of a fictitious managing committee through the DEO, Kendrapara. The Secretary, then in office, having come to

know the said fact filed representation before the Director, Secondary Education on 7th May, 2012 intimating the said authority that an attempt was made by a fictitious body to obtain approval of the authorities posing itself to be a newly constituted managing committee of the school.

5. Upon the said representation,, the Director, Secondary Education vide letter dated 12th June, 2012 called upon the DEO, Kendrapada, the Opposite Party No.3 (in the writ petition) to personally enquire into the allegations made in the representation of the Secretary and to furnish the proposal indicting as to which managing committee is functioning lawfully.

6. While the matter stood thus, on 23rd September, 2011 the Secretary applied for registration of the managing committee under the Societies Registration Act, 1860 before the Collector, Kendrapara whereas the Appellant by an application sought for registration of another body as the managing committee of the very same high school. Consequent upon of the rival claim, the district office called for reports from the DEO and the BDO who submitted reports on 28th September, 2012 enclosing therein the relevant documents.

7. The BDO, Kendrapara who had earlier submitted report on 8th November, 2011 in favour of the managing committee, wrote a letter on 31st July, 2012 to the Collector, Kendrapara and requested for registration of the managing committee formed on 1st

November, 2011 i.e. the fictitious body in which the Appellant was the Secretary.

8. In furtherance to the said letter of the BDO the Appellant approached this Court preferring W.P.(C) No.21049 of 2012 which was disposed of vide order dated 12th December, 2012 with a direction to the Collector, Kendrapara to take a decision on the report made by the BDO, Kendrapara within a period of three weeks. The Collector, Kendrapara where after took a decision on the report made by the BDO and directed for registration of the fictitious managing committee without giving any importance to the reports dated 28th September, 2012 and 8th November, 2011 of the DEO and BDO respectively.

9. Being aggrieved by the issuance of certificate of registration in favour of the Appellant, the school preferred Writ Petition (Civil) No.3738 of 2013, *inter alia*, alleging that the Appellant had not approached the Court with a clean hand in preferring W.P.(C) No.21049 of 2012 for grant of certificate of registration of the managing committee and thereby suppressed material fact and has fraudulently and clandestinely obtained direction from the Court in order to achieve his ulterior motive in getting the fictitious managing committee registered and accordingly the school in the W.P.(C) No.3738 of 2013 sought for quashing of the registration certificate issued in favour of the fictitious managing committee with a further direction for issuance of fresh certificate of

registration in favour of the managing committee for which application was duly made on 23rd September, 2011.

10. Heard Mr. Mohanty, the learned Counsel for the Appellant and Mr. S.K.Dash for the contesting Respondent No.1.

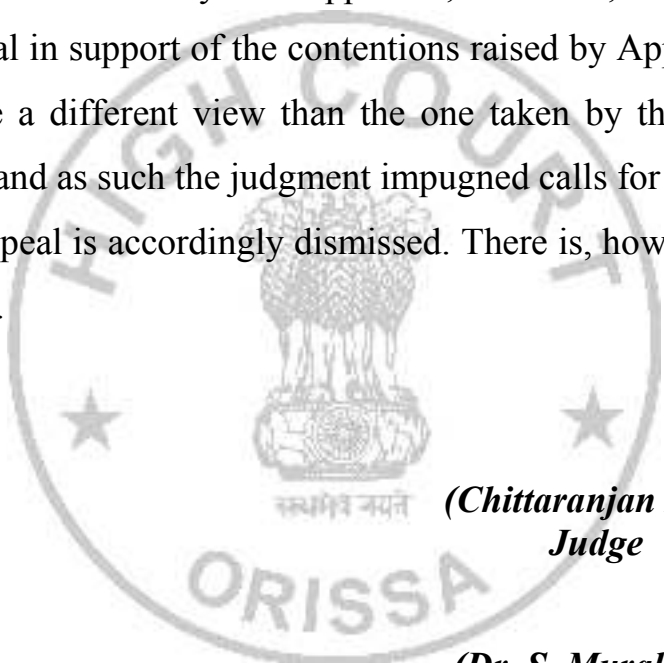
11. As submitted, the sole ground of contention of the learned counsel for the Appellant in assailing the impugned judgment is that the learned Single Judge misconstrued the fact that the certificate of registration in question was issued in favour of the Appellant thereby misdirected itself in allowing the writ petition quashing the certificate of registration dated 31st January, 2013 and by directing issuance of a fresh certificate of registration on the basis of the report of the DEO, Kendrapara dated 28th September, 2012 and the report of the BDO, Kendrapara dated 8th November, 2011 in as much as the same is apparently wrong on its face. According to him, it was issued in favour of the school and there was no infirmity in the issuance of the said certificate.

12. The learned counsel for the Respondent no.1, on the contrary, submitted that the Appellant got the direction in W.P. (C) No. 21049 of 2012 for issuance of the certificate of registration suppressing the fact that he was not the Secretary of the managing committee of the School at the relevant time and had no authority, whatsoever to make application for registration.

13. There is no denial of the above fact by the Appellant anywhere that he was not the secretary of the managing committee at the

relevant time, subsequent to the acceptance of his resignation by the general body in the meeting held on 8th July, 1994. Very surprisingly, there is no whisper at all by the Appellant as regards filing of the W.P. (C) No. 21049 of 2012 anywhere and in his submission either to counter the allegations of the Respondent No.1.

14. The Court, upon perusal of the impugned judgment and the submission made by the Appellant, therefore, in absence of any material in support of the contentions raised by Appellant, is unable to take a different view than the one taken by the learned Single Judge and as such the judgment impugned calls for no interference. The appeal is accordingly dismissed. There is, however, no order as to cost.

The seal of the Orissa High Court is a circular emblem. It features the State Emblem of India at the top center, which is a four-lion capital of an abacus. Below the emblem is the motto 'सत्यमेव जयते' in Devanagari script. The word 'ORISSA' is written in a large, bold, serif font across the bottom. Two five-pointed stars are positioned on either side of the central emblem. The words 'HIGH COURT' are written in a semi-circle at the top of the emblem.

(Chittaranjan Dash)
Judge

(Dr. S. Muralidhar)
Chief Justice