

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3397 of 2022

Minima Pangi and others

.... ***Petitioners***
Mr.K.K.Swain, *Advocate*

-versus-

State of Odisha and others

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

09.02.2022

Order No.

4. 1. This matter is taken up through Hybrid arrangement (virtual/physical mode). Video Conferencing mode.
2. Heard learned counsel for the parties.
3. The present writ application has been filed by the petitioners challenging the action of the Government in abolishing the post of Head Sevak in different Sevashrams and Ashram Schools in the district of Koraput and further seeking for a direction for their promotion to the post of Head Sevaks in accordance with the provisions of Rule 11 of the Odisha Subordinate Tribal Welfare Education (Recruitment and conditions of Service) Rules, 1993 . They have further prayed for a direction to the opposite parties not to fill up the post of Head Sevaks by Trained Graduate Teacher Headmasters in Ashram Schools and further the promotional channel/avenue may be created for the post of Sevaks at par with the Elementary Teachers working under School & Mass Education Department of the Government as per the Elementary Cadre Rules,

1997.

4. Learned counsel for the Petitioners submits that the Government by virtue of an executive direction has abolished the post of Sevaks and Head Sevaks in the aforesaid Sevashrams and Ashram Schools in the district of Koraput without amending the Rules, 1993. He further submits that the Rule 1993 is a Rule under Article 309 of the Constitution of India. Therefore, the same is binding effect and without amending the same the authority simply cannot abolish the post by their executive conduct. He also submits that the petitioners have submitted a representation before the Opposite Party No.2, the Principal Secretary, ST & SC Development Department, Government of Odisha and the same is pending till date.

5. Mr.Mund, learned Additional Government Advocate appearing for the opposite parties submits that the representation filed by the Petitioners are incomplete and it does not disclose the full data of each and every Petitioners, who are signatories to the said representation. He also submits that in the event the Petitioners file separate representation stating therein in the grounds on which they challenge the conduct of the Government, the same shall be considered by the Opposite Party No.1 within a time stipulated by this Hon'ble Court in accordance with law.

6. Having heard learned counsel for the parties and considering the fact that the Opposite Party No.1 should not have abolished the post of Sevaks and Head Sevaks without amending the provisions contained in the Rule, 1993, this Court disposes of the writ application with a direction to the Petitioners to file separate representations stating therein the grounds within a period of two weeks from today along with certified copy of this order. In the event such a representation is filed , it is needless to mention here that the

Opposite Party No.1 shall do well to dispose of the same within a period of eight weeks if required shall also provide an opportunity of hearing to the Petitioners by passing a reasoned and speaking order. The decision so taken shall be communicated to the Petitioners within 10 days thereafter.

7. In the event the Petitioners file representation within a period of two weeks as directed above, no coercive action shall be taken against the Petitioners till then.

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

8. Issue urgent certified copy of this order as per Rules.

RKS

