

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 18116 of 2014

Debasish Ku. Babu

....

Petitioner

Mr. P.K. Rath, Advocate

-versus-

State and others

....

Opposite Parties

Mr. S.N. Pattnaik, AGA

CORAM: JUSTICE V. NARASINGH

ORDER
29.06.2022

Order No.

04.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. Heard Mr. P.K. Rath learned counsel for the petitioner and Mr. S.N. Pattnaik learned Additional Government Advocate for the State.
4. The petitioner has filed this application seeking to quash the order dated 10.09.2014 passed by the Collector, Balangir under Annexure-1, by which the petitioner has been disengaged from the post of Gram Rojgar Sevak.
5. Mr. P.K. Rath, learned counsel for the petitioner contended that the Government in Panchayat Raj Department issued guideline dated 21.03.2013, regarding transfer and disengagement of GRS under MGNREGS, vide Annexure-9 wherein under Clause-2 it has

been prescribed that the Collector has the power to disengage the GRS, after following due procedure, i.e., asking for show cause and giving the opportunity of being heard.

6. The grievance of the petitioner is that in the case at hand there has been violation of guidelines primarily relating to opportunity of hearing.

7. Learned counsel for the State Mr. S.N. Pattnaik additional Government Advocate referring to the impugned order submits that opportunity as envisaged in the guidelines has been provided as such seeks for dismissal of the writ petition.

8. The policy relating to transfer and disengagement of GRS under MGNREGS issued by the Government of Odisha in the Panchayat Raj Department dated 21.03.2013 which is relevant for just adjudication at the case at hand at Annexure-9 is quoted here under;

X X X X X X X X X X

“Sub: Transfer & disengagement of GRS under MGNREGS.

Madam/Sir,

In inviting a reference to the subject cited above, I am directed to say that after careful consideration, the following decisions have been taken regarding transfer & disengagement of Gram Rozgar Sevak (GRS) under MGNREGS.

- 1. Collector will have the power to transfer the GRS from one Gram Panchayat to the other within a specific block. However, under special circumstances, Collector may consider to transfer a GRS on representation (in case of vacancy)*

from one Block to the other Block within the District. No TA shall be allowed in such case.

2. *Collector will have the power to disengage the GRS after following due procedure i.e., asking for show cause & giving the opportunity of being heard.”*

X X X X X X X X X X

9. It is stated at the bar that the above instructions relating to transfer and disengagement is still in vogue. On the touchstone of the said guideline the impugned order is to be examined, keeping in view the submission of the learned counsel for the petitioner that no opportunity of hearing was afford while passing an impugned order at Annexure-1 dated 10.09.2014.

10. It is on record that a show cause was issued to the petitioner as to why he shall not be disengaged from the post of GRS on the ground of non-performance and failure to achieve the target in terms of the earlier communication of DRDA Bolangir dated 04.06.2014.

11. Reply at Annexure-8 was submitted by the petitioner explaining the circumstances for which he could not achieve the desired target.

12. And on consideration of the same the impugned order at Annexure-1 was passed.

13. The operative portion of the impugned order germane for just adjudication dated 10.09.2014 passed by the Opposite Party No.2 is quoted hereunder;

X X X X X “ Where as he submitted his
explanation, but the explanation

tendered by him is not satisfactory and acceptable.

Hence, pursuant to letter No.17146 dated 25.08.2006 of Govt. in P.R. Deptt. Sri Ramesh Chandra Dip, GRS of Sulekela G.P. is hereby disengaged from the post of Gram Rojgar Sevak with immediate effect on the above ground.” x x x x x

14. On a bare perusal of the impugned order at Annexure-1, the operative part of which has been extracted herein above establishes beyond any iota of doubt that the same suffers the vice of lack of reason.

15. Law is no longer res integra that the reasons are the heart and soul of an order and in the absence thereof the order resembles an “inscrutable face of a sphinx”. As already stated the order impugned ex-facie does not indicate that the petitioner was provided an opportunity of hearing as envisaged and the order patently suffers from the vice of lack of reasons and hence the impugned order passed by the Opposite Party No.2 dated 10.09.2014 cannot be sustained in the eye of law and accordingly the same is quashed.

16. Taking into account the nature of allegations, the matter is remitted back to the Opposite Party No.2 for passing an order in accordance with law and after affording an opportunity of hearing to the petitioner in tune with the guidelines contained in the communication dated 21.03.2013 of Panchayat Raj Department

referred to herein above within a period of three months from the date of communication/receipt of the copy of the order.

17. The writ petition accordingly stands disposed of.

(V. NARASINGH)
Judge

Santoshi

