

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.4295 of 2022

Sk. Islam

....

Petitioner(s)

Mr. S.K. Dalai,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. S.P. Panda,
Addl. Govt. Adv.

Mr. B. Routray,
Sr. Adv. being assisted by
Ms. M. Panda,
Advocate

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
10.02.2022**

Order No.

01. 1. On abandonment of challenge to the appeal proceeding undertaken appearing to be contrary to the guideline vide Annexure-2, Petitioner confines this writ petition challenging the impugned order at Annexure-1(series) on the premises that the appeal involved following scope under the statute has been considered on the ground which is not available in the memorandum of appeal unfortunately and that there is no reason assigned to come to such conclusion.
2. This Court on entire reading of the brief nowhere finds the memorandum of appeal available on record. In spite of sufficient indication to at least bring the memorandum of appeal on record to get a scope to undertake such exercise Mr. Dalai, learned counsel for Petitioner submitted that since the Petitioner is not a party to such

appeal, it is not possible on his part to bring/retain such copy. This Court finds surprise in the submission of Mr. Dalai, learned counsel for Petitioner and observes, when the Petitioner could be able to get copy of the order in appeal, nothing prevented to such party also to get a copy of appeal memo. Mr. Dalai, learned counsel for Petitioner insists this Court to direct the State to provide such copy. For the opinion of this Court, once a dispute is raised on the particular issue, it is the responsibility of such party to also bring foundation in such allegation. This Court finds, there is no foundation available to consider the grievance of the Petitioner.

In the circumstance, this Court finds, there is no proper constitution of the brief preventing this Court from entering into such question. This writ petition is accordingly dismissed. It is, however, made clear that dismissal of the writ petition on technical ground shall not stand on the way of the Petitioner in bringing a properly constituted writ petition.

(Biswanath Rath)
Judge