

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.4600 of 2022

Rabindra Kumar Dash

.....

Petitioner

Mr.Baidhar Sahoo, Advocate

-versus-

***Kalipoi Service Cooperative Society
Ltd. and others***

....

Opp. Parties

Mr. Dilip Kumar Mishra,
Additional Government Advocate
(For Opposite Party Nos. 3 and 9)

Mr. Prabir Kumar Ray, Advocate
(For Caveators/Opposite Party Nos. 4 to 8)

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
22.02.2022**

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition seeks to assail the order dated 2nd February, 2022 passed by learned Member, State Cooperative Tribunal, Odisha, Bhubaneswar in Misc. case No.67 of 2021 arising out of SD Case No.47 of 2021, whereby learned Tribunal allowed an application filed by Opposite Party Nos. 4 to 8 to be impleaded as parties to the Dispute Case.
3. Mr. Sahoo, learned counsel for the Petitioner submits that Opposite Party Nos. 4 to 8 who have been impleaded as parties to the Dispute Case have no *locus standi* to contest the case as they are the general members of the Society. They are not the office bearers of the Society. Hence, they do not have any say in the inter se dispute between the Petitioner and the Society.

3.1 Further, learned Tribunal misreading the order passed in W.P.(C) No.450 of 2022, has passed the impugned order by impleading Opposite Party Nos. 4 to 8 as parties to the Dispute Case. It is his contention that this Court, while disposing of W.P.(C) No.450 of 2022, has never directed to implead Opposite Party Nos. 4 to 8 as parties to the Dispute Case. On the other hand, this Court vide order dated 11th January, 2022, while disposing of the writ petition, directed that in the event the Petitioners therein file an application for recall of the interim order dated 31st December, 2021 passed in Misc. Case No.67 of 2021, the same shall be considered in accordance with law giving opportunity of hearing to the parties concerned. Thus, the impugned order is not sustainable and is liable to be set aside.

4. Mr. Ray, learned counsel for Opposite Party Nos. 4 to 8 submits that since there is no elected body of the Society and continuance of the Petitioner as Secretary of the Opposite Party-Society is prejudicial to their interest, they prayed for their impletion as parties to the Dispute Case and vacation of interim order. Thus, learned Tribunal has committed no error in passing the impugned order. It is his contention that *locus standi* of Opposite Party Nos. 4 to 8 can only be determined at the time of final adjudication of the Dispute Case by framing issue to that effect.

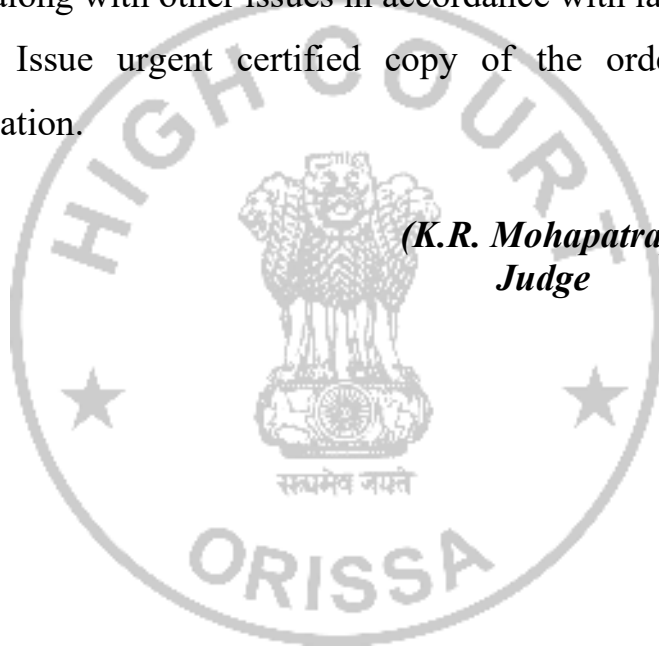
5. Taking into consideration the submissions of learned counsel for the parties, this Court is of the considered opinion that *locus standi* of Opposite Party Nos. 4 to 8 to contest the Dispute Case can be adjudicated by receiving evidence from both sides. Since it requires factual and legal adjudication the

same has to be considered by framing appropriate issue if an application is filed to that effect.

6. Accordingly, this Court, without expressing any opinion on the merit of the case of either parties, disposes of the writ petition with a direction that if the Petitioner files an application for framing of an issue with regard to *locus standi* of Opposite Party Nos. 4 to 8 in Dispute Case No.47 of 2021, learned Tribunal shall do well to frame an issue to that effect and adjudicate the same at the time of final hearing of the Dispute Case along with other issues in accordance with law.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge



s.s.satapathy