

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.7690 OF 2021

Papuna @ Purna Chandra Mohanty & ors. ***Petitioners***

Mr.L.Achari, Adv.

-versus-

State of Odisha & ors. ***Opposite Party(s)***

Mr.S.Ghosh, AGA

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
25.7.2022**

Order No.

03

1. Heard learned counsel for the Parties.
2. This Writ Petition appears to be in third round of litigation involving the prayer as herein :-

“It, is therefore, prayed that Your Lordships be graciously pleased to admit the writ petition, call for the relevant records as deem necessary and after hearing the parties upon notice allow the same, setting aside the impugned order at Annexure-8 and direct the opp. Parties No.2 and 3 to grant of license to the petitioners under Odisha Supply and Sale of Stamps and Stamp Papers Rules, 1990 and be placed under Khurda and Bhubaneswar as per the respective representations.

And may further be pleased to pass any other order(s)/direction(s) as deem fit and proper in the facts and circumstances of the case..”

3. In the first round of litigation, considering the request of the Petitioner, a coordinate Bench, vide W.P.(C) No.12791 of 2019 on 21.10.2019 passed the following order :-

“Present – Papuna @ Purna Chandra Mohanty, the petitioner No.1 on behalf of all the petitioners.

None appears for the Opposite Parties State, as the Lawyers have abstained from Court work.

The petitioners are stated to have filed a representation vide Annexure- 4 series before the Addl. District Magistrate, Khurda - Opposite Party No.3 for redressal of their grievance. The said representation is stated to be still pending.

Taking into consideration the facts and submissions and without going into the merit of the case, the writ application is disposed of, directing the Addl. District Magistrate, Khurda - Opposite Party No.3, to dispose of the representation of the petitioners vide Annexure- 4 series, within a period of two months from the date of receipt of a certified copy of this Order.

The petitioners are directed to supply a copy of the writ application containing all the Annexures along with a certified copy of this Order to the Opposite Party No.3 for convenience & reference to Annexure-4 series.

The writ application is accordingly disposed of. Urgent certified copy of this order be granted as per rules.”

The Petitioner finding no outcome within reasonable time approached this Court again in W.P.(C) No.15637 of 2020 appears to have been disposed of on 16.9.2020 with the following order :-

“Due to outbreak of COVID-19, this matter is taken up through Video Conferencing.

2. Heard Mr.Bibhudananda Mohapatra, learned counsel for the petitioners and Mr.S.N.Mishra, learned Additional Government Advocate appearing for the State-opposite parties.

3. Petitioners, in this writ petition assails the order dated 12.02.2020 (Annexure-6) passed by the Additional District Magistrate, Khordha (OP No.2) rejecting the representation of the petitioners for their appointment as stamp vendors at different places in the district of Khordha.

4. Mr.Mohapatra, learned counsel for the petitioners submits that earlier they had moved this Court in W.P.(C) No.12791 of 2019, which was disposed of on 21.10.2019 with a direction to opposite party No.2-ADM, Khordha to dispose of the representation of the petitioners within a period of two months from the date of receipt of certified copy of the said order. Since the order was not complied with, the petitioners had to move this Court in CONTC No. 162 of 2019. Subsequently, the impugned order under Annexure-6 has been passed by the ADM, Khordha in consideration of the aforestated representation. It is his submission that there is no fresh appointment of W.P.(C) No. 15637 of 2020 stamp vendors in the district of Khordha since 2009. At that point of time, 58 numbers of stamp vendors were operating which has

now been reduced to 48. In order to substantiate their case, the petitioner No.1 has annexed information obtained by him under the provisions of Right to Information Act, 2005 as at Annexure-2. He has also relied upon recommendation dated 30.05.2017 (Annexure-3) of District SubRegistrar, Khordha at Bhubaneswar for appointment of petitioner No.1-Mr.Papuna alias Purna Chandra Mohanty as Samp Vendor in that premises. It is his submission that although the provision of e-stamping has been introduced, still there is huge demand of stamp and stamp papers and if the petitioners are appointed at their respective places there will be no difficulty of the other stamp vendors to have a moderate income. It is further submitted that there is no adequate number of stamp vendors and requirement of their appointment is necessary so that public do not face inconvenience in obtaining stamp and stamped papers readily. Pursuant to the direction of this Court, the ADM, Khordha hurriedly disposed of representations of the petitioners without assigning any reason and without referring to any fact and figure, which resulted in grave miscarriage of justice. Hence, he prays for setting aside of the impugned order under Annexure-6.

5. Mr.Mishra, learned Additional Government Advocate submits that the ADM, Khordha in order to satisfy himself had called for report from SubCollector, Bhubaneswar, sub-Registrar, Bhubaneswar and Sub-Registrar, Baliana, who submitted their reports vide letter Nos.991, 138 and 102 dated 07.02.2020, 05.02.2020 and 08.01.2020 respectively. From the said reports it appears that there are sufficient stamp vendors existing in the respective offices. He further submitted that after introduction of e-stamping, demand for purchase of stamp papers has been substantially reduced. Considering all these aspects, ADM, Khordha has passed the impugned order, which needs no interference.

6. Having heard learned counsel for the parties, it would be profitable to refer Rule 17(1) of the Odisha Supply and Sale of Stamps and Stamped Papers Rules, 1990 (for short, 'Rules of 1990') in the present context, which reads as follows:

"17. Criteria for grant of licences – (1) In granting licences in pursuance of the forgoing rule, Collectors and Sub-Collectors should keep in view the fact that while the number of vendors should be such that there is no inconvenience to the public in readily obtaining stamps and stamped papers, it should not be so large that vendors do not obtain a moderate income."

7. On a close reading of the impugned order under Annexure-6 with reference to Rule-17(1) of the Rules of 1990, it appears that ADM, Khordha has not considered any fact and figure to reach at a conclusion that there is no need to appoint the petitioners as Stamp Vendors at different places of Khordha district. Although the ADM, Khordha has referred to the letters of Sub-Collector, Bhubaneswar, sub-Registrar, Bhubaneswar and Sub-Registrar, Baliana, but he has not discussed the same in his order. ADM, Khordha has also not made any endeavour to make a

comparative study of demand of stamp and stamp papers after introduction of e-stamping system. The recommendation in respect of petitioner No.1 as at Annexure-3, is apparently not considered

8. In that view of the matter, this Court feels that the matter requires further consideration. Accordingly, the impugned order under Annexure-6, for want of sufficient reasons, is set aside. The matter is remitted back to the ADM, Khordha for fresh consideration in accordance with law keeping in mind the observations made herein above.

9. As it appears, the matter is pending since long. As such, an early decision in this regard is solicited. Accordingly, ADM, Khordha-opposite party No.3 is -5- directed to consider the representation of the petitioners afresh, as expeditiously as possible, preferably within a period of four months from the date of production of an authenticated copy of this order downloaded from the website of this Court, which shall be treated at par with certified copy in the manner prescribed in this Court's Notice No.4587 dated 25.03.2020. He shall also make necessary enquiry as he deems fit and give opportunity of hearing to the person(s) concerned, if required and pass a reasoned order."

It is after the aforesaid directions, the Authority ultimately considered the case of the Petitioners in the matter of appointment as Stamp Vendors in the particular Station and has been pleased to reject the claim of the Petitioners giving rise to filing the third round of litigation herein.

4. Mr.L.Achhari, learned counsel for the Petitioners referring to their own Letter of the Competent Authority at Page-24, vide Annexure-3 brought to the notice of this Court that the Stamp Duty figure in the year 2016-17 was shown to be Rs.83,64,13,423/- in the State of Odisha and the total Stamp Duty collected through franking machine was Rs.66,68,34,365/- and stamp sold through the Vendors to be Rs.16,95,79,058/-. It is on the basis of aforesaid figure from Mr. Achhari, learned counsel for the Petitioner contended that there is

still requirement of sale of stamps through Vendors. Taking to the grounds raised herein in the Writ Petition, learned counsel for the Petitioner contended that the reasoning assigned by the Authority declining the request of the Petitioners remains contrary to their own Record.

5. Mr.S.Ghosh, learned Additional Government Advocate, on the other hand, in an attempt to justify the impugned order at Annexure-8 and taking this Court to the reasonings contended, there have been reports from the Competent Authority before examining such aspect and the Office Data as well as reports clearly reveal for the introduction of payment of stamps through franking mode, the sale of stamps through the Vendors has been reduced drastically. It is also contended, taking into account the number of Stamp Vendors already available in the particular Station, an assessment has been made by the Competent Authority resulting requiring no further Stamp Vendors. In the circumstance, Mr.Ghosh, learned Additional Government Advocate prayed for rejection of the Writ Petition.

6. Considering the rival contentions of the Parties, this Court finds, the Petitioners have pursued their remedy in the matter of appointment of Stamp Vendors in the particular Station. The Petitioners admitted to have approached prior to 2017. The Petitioners also produced the document of the State Government

giving details of stamps sold in different mode appears to be prepared on 30.5.2017. In the circumstance, finding substance in the submission of the learned counsel for the State, this Court perused the impugned order. On perusal of the impugned order, this Court clearly finds, not only there has been a threadbare examination of the request of the Petitioners since it involves request for appointment as Stamp Vendors, there is categoric observation showing the office data establishing that there is drastical reduction in the purchase of stamps through Vendors all over the State even station wise. For the introduction of technical mode, litigants as well as Lawyers are found payment of stamps through franking mode easier and time saving as well. This Court also observes, for filing civil suits as well as registering instrument there is always requirement of heavy stamping. With the introduction of this payment of stamps through franking mode, the typing of the plaints and/or registration of instruments is no more appearing through stamp papers. The payment of stamps through franking machine has become a normal mode in the entire State of Odisha and this mode also started saving papers.

7. Considering the reasoning of the Competent Authority loaded with specific data, this Court finds, the reasoning since based on finding of facts and reports at different levels, there is no scope

for interfering in such Writ Petition. In the circumstance, this Court declines to interfere with the impugned order.

8. The Writ Petition thus stands dismissed.

(Biswanath Rath)
Judge

M.K.Rout

