

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7372 of 2022

Tophan Guru

....

Petitioner

Mr. Manoj Kumar Panda, Advocate

-versus-

State of Odisha & others

....

Opposite Parties

Mr. B. Pr. Tripathy, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

19.12.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the parties. Perused the writ petition and documents annexed therewith.
3. Considering the submission made by learned counsel for the Petitioner that during pendency of criminal trial, filing of defence by the Petitioner in the disciplinary proceeding will jeopardize the prospect of the delinquent-Petitioner involved in the criminal case, this Court finds support for the submission of learned counsel in the aforesaid context from the decision of the Hon'ble Apex Court reported in AIR 1999 SC 1416, decided taking support of the old decision of the Hon'ble Apex Court reported in AIR 1965 SC 155. Similar view has also been taken in a judgment reported in (2012) 1 SCC- 442.
4. By filing the present writ petition, the Petitioner has prayed for

stay of the Bhubaneswar UPD Proceeding No.04 of 2021 under Annexure-3 involving the Petitioner till finalization of the Criminal Trial in V.G.R. Case No.37 of 2020 arising out of Bhubaneswar Vigilance P.S. Case No.33 of 2020 pending in the Court of the learned Special Judge (Vigilance), Bhubaneswar.

5. Learned counsel for the State draws the attention of this Court to the charges framed by Criminal Court and in the Disciplinary Proceeding and contends that the disciplinary proceeding has been initiated against Petitioner for suppression of information regarding his involvement in criminal case and, as such, the charges in both the cases are different. Therefore, he submits that the ratio decided in aforesaid Supreme Court judgments are not applicable to the facts of the present case and the disciplinary proceeding against the Petitioner should not be stayed awaiting the verdict in criminal case and further prays for dismissal of the writ petition.

6. This Court on a careful scrutiny of the charges in both proceedings partly agrees with the submission made by learned counsel for the State. The charges in criminal case no doubt forms the basis for the initiation of D.P. in addition to the charge that such information was not disclosed to the employer by the employee in violation of the service Rules. However, this Court is also of the view that while continuing with the D.P. the Petitioner would be required to disclose his defence which might be detrimental to his interest involved in the criminal trial.

7. Having heard the learned counsel for the parties and upon a careful analysis of the rival contentions and upon a scrutiny of the writ petition and the documents attached to it, this Court in the greater interest of justice deems it proper to dispose of the writ

petition by directing that the Disciplinary Proceeding against the Petitioner shall remain stayed for a period of one year from the date of this order. Further, on production of a certified copy of this order by the Petitioner, the Court in seisin of the trial of the case arising out of Bhubaneswar Vigilance P.S. Case No.33 of 2020 under Section 7 of the P.C. Act shall expedite the trial and make every endeavour to conclude the trial within one year. Parties are directed to cooperate with the trial court.

8. With the aforesaid observation and direction, the writ application is disposed of.

Urgent certified copy of this order be granted on proper application.

(*A.K. Mohapatra*)
Judge

