

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7679 of 2022

Sri Prashna Kumar Behera

..... Petitioner
Mr. SN. Patnaik, Advocate

-versus-

State of Odisha and others

..... Opposite Parties
Standing Counsel for S&ME Deptt.

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
30.03.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned Standing Counsel for School and Mass Education Department.
3. The present writ petition has been filed by the Petitioner challenging the impugned rejection order dated 16.10.2021 issued by the District Education Officer, Kandhamal, Phulbani (Opposite Party No.3) under Annexure-12 wherein the Opposite Party No.3 has rejected the application of the Petitioner for Rehabilitation Assistance Scheme. It is submitted by learned counsel for the Petitioner that the father of the Petitioner died on 10.09.2000 and is covered under the OCS(RA) Rules, 1990. It is submitted by learned counsel for the Petitioner that although the application had been submitted by the father of the Petitioner before his death, i.e. in the year 2000, the Authority sat over the matter for about two decades

and finally by virtue of the impugned order under Annexure-12, the same came to the light.

4. Learned Standing Counsel for School and Mass Education Department submits that let the Authority be directed to consider the case of the Petitioner in the light of the judgment delivered by the Hon'ble Supreme Court of India in the case of *The State of Madhya Pradesh & others vs. Ashish Awasthi (Civil Appeal No.6903 of 2010, decided on 18.11.2021)* and in the case of *Canara Bank and another vs. M. Mahesh Kumar*, reported in *(2015) 7 SCC 412*.

5. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this Court observes that the order dated 16.10.2021 under Annexure-12 is not sustainable in law and therefore the same is hereby quashed. The matter is remitted back to the District Education Officer, Kandhamal, Phulbani (Opposite Party No.3) to consider the entire issue in the light of the judgment of the Hon'ble Supreme Court along with as well as of this Court as referred to hereinabove within a period of two months from today. In the event the Petitioner is found eligible to be appointed in the vacancy. The Petitioner may be appointed within two months thereafter under the Rehabilitation Assistance Scheme as per the OCS (RA) Rules, 1990.

6. With the above direction, the Writ Petition stands disposed of.

7. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge