

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7849 of 2022

Sushreesangita Pati and others

..... Petitioners
Mr. K.C. Sahu, Advocate

-versus-

State of Odisha and others

..... Opposite Parties
Mr. Y.S.P. Babu, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

31.03.2022

Order No.

- 01.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner as well as learned counsel for the State.
 3. The present writ petition has been filed by the petitioner with the following prayers:-
 - “(i) The Hon’ble High Court be pleased to admit and allow the writ petition,
 - (ii) The Hon’ble Court be pleased to quash the impugned order dtd.04.02.2022 under Annexure-16 issued by the Opp. party no.3.
 - (iii) The Hon’ble court be pleased to direct the Opp.parties for regularization/instruction of the services of the petitioners as Lab. Technician/STLS pursuant to the order/judgment of this Hon’ble court under Annexure-13(series) & 14 so also in view of the statutory rule by involving the resolution provision under Annexure-5 for the interest of

justice.

- (iv) The Hon'ble Court be pleased to pass any other order(s)/direction(s) as deems fit & proper for the bonafide interest of justice.”

4. Being aggrieved by the order dated 04.02.2022 passed by the Chief District Medical & Public Health Officer, Jajpur, the petitioners have approached this Court by filing the present writ petition.

5. Earlier the petitioners had approached this Court by way of filing writ petitions bearing WPC(OAC) No.3526 of 2016 and WPC(OAC) No.3527 of 2016 2021 disposed of on 23.12.2021 with a direction to the authorities to consider the case of the petitioners in the light of the judgment of this Court in the matter of **Akhila Kumar Naik and others vrs. State of Odisha and others** (W.P.(C) No.33301 of 2020 and a batch of other matters vide judgment dated 11.12.2021.

6. A close scrutiny of the order dated 04.02.2022 under Annexure-16, it is seen that the representations of the petitioners have been rejected by the High Power Committee on the ground that the petitioners are found to have been passed out from private unrecognized institutes as laid down by Govt. in H&FW Dept. No.26564/H dated 18.11.2020. Accordingly, the representation submitted by the petitioners has been rejected by the Government and their case for regularization of service against Government sanctioned post has not been considered by the Government.

7. Learned counsel for the petitioners submits that the ground on which the representations of the petitioners have been rejected was precisely the issue in the case of **Akhila Kumar Naik and others vrs.**

State of Odisha and others and this Court after considering the issue in detail by a judgment finally held that the ground which has been taken note of in the order rejecting the representations, is illegal and the observation to that effect made in the High Power Committee in its Minutes dated 15.05.2020 and the consequential letter dated 18.11.2020 so far it relates to non-regularization of services of the petitioners on the plea that they have passed from unrecognized institution by the High Power Committee is unsustainable in the eye of law.

It is further submitted by learned counsel for the petitioners that although the petitioners are working regularly but, they are not getting their current salaries and arrear salaries also.

8. On perusal of the impugned order, this Court is of the considered view that the authorities are callously and casually manner sitting over the matter. While considering the representation pursuant to the direction of this Court, the Government should have gone through the judgment passed by this Court and decided the issue in the light of the ratio of the judgment passed by this Court in the case of ***Akhila Kumar Naik and others vrs. State of Odisha and others***. When this issue was put to the Government counsel, he was unable to give any satisfactory answer.

9. Considering the aforesaid submissions made by the learned counsel for the parties and the conduct, particularly of the Chief Medical & Public Health Officer, Jajpur-Opposite Party No.3, this Court is of the considered view that the order dated 04.02.2022 under Annexure-16 is highly illegal and unsustainable in the eye of law. Accordingly the same is quashed and the matter is remit back to the

Chief Medical & Public Health Officer, Jajpur-Opposite Party No.3 to consider the same strictly in the light of the ratio decided in the case of *Akhila Kumar Naik and others vrs. State of Odisha and others* within a period of two months from the date of production of certified copy of this order.

10. Further the Opposite Parties are directed that if the petitioners are working regularly, to reconsider the issue strictly in accordance with law and dispose of the same by passing a speaking and reasoned order. Any decision taken on the same shall be communicated to the Petitioner within a period of two weeks thereafter. The petitioners are also directed to furnish a copy of the judgment in the case of *Akhila Kumar Naik and others vrs. State of Odisha and others* (supra) to the authorities within the aforesaid stipulated time.

The authorities are directed that if the petitioners are working regularly, their current salary should be paid immediately preferably within a period of one month from the date of receipt of a copy of this order.

11. With the aforesaid observation and direction, the writ petition is allowed. There shall no order as to cost.

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

(*A.K. Mohapatra*)
Judge