

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.A. No. 185 of 2018**

***The Collector-cum-District Project Coordinator, MGNREGA, DRDA, Bargarh*** .... ***Appellant***

Mr. R.N. Patnaik, Advocate

*-versus-*

***Chandrasahya Patel and others*** .... ***Respondents***

Mr. J. Sahu, Advocate for Respondent No.1 and

Mr. M. K. Khuntia, AGA for State

**CORAM:  
THE CHIEF JUSTICE  
JUSTICE M.S. RAMAN**

**ORDER  
12.12.2022**

**Order No.**

04. 1. The present appeal is directed against an order dated 21<sup>st</sup> March, 2018 passed by the learned Single Judge allowing W.P.(C) No.25685 of 2017 filed by Respondent No.1.
2. In the said writ petition, Respondent No.1 had challenged an order passed by the present Appellant disengaging him as Gram Rozgar Sevak (GRS) in Paikmal Block without complying the principles of natural justice.
3. A perusal of the said order dated 17<sup>th</sup> January, 2017 issued by the present Appellant reveals that the disengagement was only on account of Respondent No.1 having been remanded to judicial custody in G.R. Case No.703 of 2016 under Sections 420/506 IPC on 3<sup>rd</sup> October, 2016 and then having been released on bail by the S.D.J.M., Padampur on 11<sup>th</sup> November, 2016. It was concluded that

since he had been imprisoned for more than 48 hours, Respondent No.1 had committed breach of trust and, therefore, was being disengaged “on the ground of misconduct” with effect from the date of his arrest, i.e., 3<sup>rd</sup> October, 2016.

4. In seeking to defend the above order before the learned Single Judge, it was contended by the present Appellant that a Circular dated 21<sup>st</sup> May, 2012 issued by the Appellant permitting the disengagement of contractual employee on the ground of “misconduct/inefficiency” even without a hearing.

5. The learned Single Judge held, and in view of this Court rightly, that the said Circular had no application to the case on hand since Respondent No.1 was taken into custody on the basis of a complaint by a private individual and the case in which he was imprisoned had nothing to do with his employment whatsoever. Learned counsel appearing for the Appellant is unable to explain to this Court why the learned Single Judge was wrong in coming to the above conclusion.

6. Before the learned Single Judge, reliance was sought to be placed on another letter dated 5<sup>th</sup> December, 2012 in terms of which a non-performing GRS could be disengaged under Section 25 of the MGNREGS Act, 2005. That provision contemplates contravention of a provision of that Act in order to attract penalty. As rightly pointed out by the learned Single Judge, there is no charge against Respondent No.1 that he violated Section 25 of the MGNREGS Act and, therefore, that provision also had no application to the facts on hand.

7. The learned Single Judge had already observed that it will always be open to the Appellant to take appropriate action depending on the outcome of the criminal case. The Court is informed that the criminal case is still pending.

8. Learned counsel appearing for the Appellant then referred to I.A. No.290 of 2018 filed in the present appeal in which a copy of a letter dated 5<sup>th</sup> April, 2018 issued by the Additional Project Director (Administration), DRDA, Bargarh to the BDO, Paikmal Block has been enclosed. That letter requires the BDO to hold an inquiry into the issue of a job card to Respondent No.1. In any event, the said letter appears to be an independent and separate cause of action unrelated to the disengagement order which was challenged before the learned Single Judge. Consequently, the Appellant cannot possibly rely on a subsequent development to justify the disengagement order.

9. For all of the aforementioned reasons, the Court finds no reason to interfere with the impugned order of the learned Single Judge. Accordingly, the writ appeal is dismissed.

***(Dr. S. Muralidhar)***  
***Chief Justice***

***(M.S. Raman)***  
***Judge***

*M. Panda*