

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 8685 OF 2022

Pramod Kumar Kandi

..... *Petitioner*
Mr. Kalpataru Mishra, Advocate

-versus-

State of Odisha & Others

..... *Opposite Parties*
Mr. P. Mohapatra, ASC

CORAM:
JUSTICE V. NARASINGH

ORDER
21.06.2022

Order No.
02.

1. This matter is taken up through Hybrid Mode.
2. None appears for the petitioner when the matter is called.
3. Heard Mr. P. Mohapatra, Learned Additional Standing Counsel for the State.
4. The petitioner, who is a Grama Rozagar Sevak (GRS) is aggrieved by the order passed by the Collector-cum-DPC, NREGS, Cuttack dtd. 31.10.2019 at Annexure-1 by which the petitioner whose names appears at Serial No. 38 of the said order was transferred from Baharana Gram Panchayat under the Niali Block to Bhatarika Gram Panchayat of Badamba Block.

5. It is submitted by the learned counsel for the petitioner that the case at hand is covered by the judgment of this Court in the Case of *Manas Kumar Swain Vrs. State of Orissa* reported in (2020) ILR-Cut-357, wherein it has been held that ex-facie the BDO/ Collector has no authority to direct for transfer of any GRS from one place to another.

Paragraph-17 of the order in *Manas Kumar Swain (supra)*, which has a direct bearing on the point at issue and deals with the schematic arrangement of the MGNREGS Scheme, 2005 is quoted hereunder for convenience and ready reference.

“17 By 73rd amendment of the Constitution 1992, Part-IX has been inserted to the Constitution by inserting Article 243 to 243 (o). To achieve the objective of such amendment of provisions of the Constitution and strengthening the peoples participation in panchayat administration, if the benefit has been extended to the petitioner in consonance with the constitutional mandate read with MGNREG Act, 2005 and operational guidelines issued under the provisions of the Act itself and basing upon which the petitioner was engaged and allowed to continue by virtue of the agreement executed between the parties during subsistence of such agreement, the authority cannot curtail the same without any rhyme or reason by relieving him forthwith. Thereby, the entire action of opposite party no.4 by issuing order in Annexure-4 relieving the petitioner from the post of GRS cannot sustain in the eye of law and accordingly the same is liable to be quashed and is hereby quashed. The opposite parties are directed to allow the petitioner to continue in his post as GRS as before, till subsistence of the agreement between the parties and allow him to discharge the duty allotted to him, in consonance with the provisions of law. ”

6. Though the Order in question is appealable one, the learned counsel for the State fairly submits that the writ petition can be disposed of on the basis of the said judgment. It is further submitted by the learned counsel for the State that the judgment in the case of ***Manas Kumar Swain (supra)*** has been assailed in Writ Appeal No. 402 of 2017, which is pending adjudication.

7. It is stated at the Bar that in the said Writ Appeal, Hon'ble Division Bench has not stayed the operation of the judgment in ***Manas Kumar Swain (supra)***.

8. In view of such undisputed position as stated above, this writ petition being prima facie covered by the judgment of this Court in the case of ***Manas Kumar Swain (supra)***, is disposed of in terms of the said judgment and the impugned order at Annexure-1 dtd. 31.10.2019 relating to the petitioner at Serial No.38 transferring him from Baharana Gram Panchayat under the Niali Block to Bhatarika Gram Panchayat of Badamba Block is hereby stands quashed, subject to the final outcome of the Writ Appeal No. 402 of 2017. The same be indicated in the modified order to be issued to the petitioner.

Balaram

(V.Narasingh)
Judge