

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.2811 of 2022

Swadhin Kumar Sahoo

....

Petitioner

Mr. B. Mansingh, Advocate

-versus-

***Nikunja Bihar Dhal, I.A.S.,
Principal Secretary, Department of
Energy, to Government of Odisha, ,
Bhubaneswar and others***

....

Opposite Parties

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

06.05.2022

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 contempt petition has been filed by the petitioner with the following prayers:

“In the premises aforesaid, it is prayed that this Hon’ble Court May be graciously pleased to issue notices to the Opp. Parties calling upon them to show cause as to why an action under the contempt of the Courts Act shall not be taken against them for violating in the order dated 06.01.2022 passed in W.P.(C) No.40882 of 2021 and upon their showing no cause/false cause or insufficient cause, May further be pleased to direct the O.P. No.3 to act promptly in the matter and carry out the order of this Hon’ble Court.

And pass such other order/orders that may be deemed fit by this Hon’ble Court.”

4. It is submitted by learned counsel for the petitioner that the following order has been passed by this Court in W.P.(C) No.39224 of 2021 with the order as follows:-

XX

XX

XX

XX

XX

“5. This Court considering such situation has already settled the position of law keeping the sealed cover promotion aspect in view of pendency of the Disciplinary Proceeding and/or Vigilance Proceeding for decades becomes bad.

6. Fact involving the case reveals that there is a disciplinary proceeding against the petitioner besides the vigilance proceeding pending in the court of Special Judge, Vigilance, Cuttack in Cuttack Vigilance P.S. Case No.16 of 2018 and No.15 of 2020. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2018 and 2020. However, the said vigilance case is yet to be disposed of. Pleading also further made clear that Disciplinary Proceeding No.7 of 2018 and No.2 of 2021 is initiated against the petitioner. In this background of case an allegation is made that promotion of the petitioner taking effect from 01.07.2021 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2018 and 2020. For the settled position of law, this in disposal of the writ petition observes, petitioner cannot suffer for the long pendency of the vigilance proceeding. It is also not known when the Vigilance Proceeding initiated in the year 2018 and 2020 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Chief Executive Officer, TPCOL, Corporate Office, At-Unit-VIII, Bhubaneswar, O.P. No.3 to give promotion to the petitioner to the rank of Asst. Manager (Electrical) from the date of his junior and batchmate, Nepal Sen Tajen has got such promotions. However the promotions of the petitioner as per direction of this Court shall be subject to the ultimate outcome in the Vigilance Proceeding. Further it is also clarified that the promotion given to the petitioner to the rank of Asst. Manager (Electrical) shall not confer equity in the event

he will ultimately lose the Vigilance Proceeding. Entire exercise shall be completed within four weeks from the date of communication of this direction. It is also clarified that upon promotion, petitioner shall also be entitled to all consequential benefits.”

5. It is submitted by learned counsel for the petitioner that direction of this Court has not been complied with by the Opposite Party No.3-Contemnor.

6. Considering the submissions made and the urgency of the petitioner, this Court grants another opportunity to the Opposite Party-Contemnor to comply with the direction issued by this Court by order dated 06.01.2021 passed in W.P.(C) No.40882 of 2021 in accordance with law within a period of one month from the date of production of certified copy of this order. In the event Opposite Party No.3-Contemnor is not complied with the direction of this Court within the aforesaid stipulated time, punishment should be imposed against the contempt.

7. It is for the petitioner to make an application along with certified copy of this order before the Opposite Party No.3-Contemnor within a period of one week from today and the same shall be considered by the Opposite Party No.3-Contemnor in accordance with law within the stipulated time period.

8. Accordingly, the CONTC is disposed of.

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

(A.K. Mohapatra)
Judge