

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 10281 of 2022

Maa Ambika SC ST Residential **Petitioner**
Siksha Sevashram

Mr. Karunakar Rath, Advocate

-versus-

Principal Secretary to Govt., **Opp. Parties**
School and Mass Education
Deptt. & others

Mr. P.K. Panda, Standing Counsel
(School and Mass Education)

Mr. S.S.Rao along with Mr. B.K.
Mohanty, Advocate for opp. Parties 4 &
5-BSEO

CORAM:
JUSTICE M.S. SAHOO

ORDER
24.06.2022

Order No.

- 04.
1. This matter is taken up through hybrid mode.
 2. The writ petition has been filed with the following prayers:-

“Therefore it is most humbly prayed that this Hon’ble Court may be graciously pleased to admit this writ petition, call for the records, issue rule Nisi calling upon the Opp. Parties to show cause as to why the students of the petitioner’s school shall not be treated as a regular candidate for appearing in Annual HSC Examination 2022 and Failing to show cause or showing insufficient cause/no cause, issue the writ of Mandamus directing the Opp. Parties more particularly Opp. Party No.4 & 5 to allow the students of petitioner’s school to appear in the Annual HSC Examination 2022 as a regular candidate who have prosecuted study and completed the course for the academic session.”

RJ

3. After hearing learned counsel for the petitioner as well as

learned Standing Counsel (School and Mass Education Department), the following order was passed on 26.04.2022:-

“2. The petitioner, stating to be the Secretary of a SC/ST Residential Siksha Sevashram, inter alia challenges the alleged inaction of opposite party-Board of Secondary Education in not allowing the students for appearing at the annual final HSC Examination 2022.

3. After going through the writ petition, it is not understood, when the students had filled-up the forms and when they applied through the School for appearing at the HSC Examination regarding all these details the petition is conspicuously silent.

4. The further fact that is to be taken note of is that the process of conducting HSC Examination started about December,2021, the examination centres have been fixed, the concerned nodal centres have been fixed for distribution of the question papers, and all the arrangements have been made.

5. The writ petition was filed on 22nd April,2022, though the process of filling-up forms started in December,2021. The reason of the petitioner sitting over the matter is also not known.

6. It is submitted by the learned counsel for the petitioner that the apparent reasons could be the closure of the school and hostel of the residential Sevashram School of SC/ST students in 2019 by the authority.

7. The writ petition does not contain any statement or any annexure regarding the closure of the Hostel and the relevant facts pertaining thereto.

8. Learned counsel for the petitioner submits that a separate writ petition, i.e., W.P.(C) No.31194 of 2021, has been filed to quash the order of the Director passed on 12.12.2019 to allow the students as quasi regular candidate for HSC Examination.

9. Issue notice on admission indicating that the

matter is likely to be disposed of at the stage of admission.

10. Learned Standing Counsel appears on behalf of opposite party nos.1 to 3 and waives of notice. Let two extra copies of the brief be served on the learned Standing Counsel.

Mr. B.K. Mohanty along with Mr. S.S.Rao, learned counsel appear for opposite party nos.4 and 5 and waive of notice. Let two extra copies of the brief be served on Mr. Rao, learned counsel for opposite party nos.4 and 5.

11. List this matter tomorrow (27.04.2022).”

4. On 27.04.2022, the matter was again heard at length and the following order was passed:-

“2. The matter was listed on 26.4.2022 and a detail order has been passed as follows:

.....

3. At the instance of the learned counsel for the petitioner, the matter was adjourned to 27.4.2022 (today).

4.Learned Standing Counsel is present in Court on behalf of O.Ps.1 to 3. Let ~~three~~ extra copies be served on the learned Standing Counsel. Mr. S.S. Rao along with Mr. B.K. Mohanty, learned counsel appearing for OPs.4 & 5-Board of Secondary Education. Let two extra copies be served on the learned counsel for O.Ps.3 to 5. Learned counsel for the OPs. shall obtain instruction.

5.List on 4.5.2022.”

5. Upon further hearing of the matter, it is submitted by the learned counsel for the petitioner that, if this Court will not interfere in the matter, the fate of certain students those have taken admission in the petitioner school will be uncertain.

6. None of the students is a petitioner in the writ petition. Though, learned counsel for the petitioner has made an endeavour to espouse the cause of the students, nowhere the details of any students those have taken admission or the details of those who have filled-up the Forms for appearing the Annual HSCE, 2022 is indicated in the writ petition.

7. It is further submitted by the learned counsel for the petitioner with much emphasis that the Court has ample power to direct the examining body, a Statutory Authority, i.e. Board of Secondary Education, Odisha (BSEO) to conduct examination even in one day before holding of the examination and for that reason the matter should be adjourned today.

8. In view of the fact that the examination (Annual HSC, 2022) was held long back and filling-up of Forms which was started from December, 2021 and the results of the said examinations has already been published, the contention of the petitioner is misconceived much less this Court having power to direct to conduct the High School Certificate examination of students like those had purportedly taken admission in the institution of which petitioner has stated to be the Secretary.

9. It is submitted by the learned counsel for the petitioner that he has no more submissions to make regarding the matter.

The learned counsel seeks further adjournment after the matter has been heard on three dates i.e. 26.04.2022, 27.04.2022 and 4.5.2022 and on each occasion, learned

counsel for the petitioner has opted for adjourning the matter for further hearing.

Accordingly, the prayer for adjournment is rejected on the fourth time.

10. Learned counsel for the petitioner was again requested to point out regarding the observations made in paragraph-3 of the order dated 26.04.2022: as to when the students have filled-up the forms, when did they apply through the School for appearing at the HSC Examination 2022 and the details thereof.

11. Learned counsel for the petitioner fairly submits that the students had not filled-up any Form to appear at the HSC Examination, 2022 and further submits that the students were not allowed to fill-up Form to appear at the examination by the authority.

12. In considered view of this Court, the petitioner should be fair enough to disclose who were the students those wanted to fill-up the Form/who prosecuted studies in the institution and which are the authority that did not allow the students to fill-up the Form.

13. Having heard learned counsel for the parties, it has to be noted that no further direction can be issued for allowing the “students” to appear at the Annual HSC Examination, 2022, by filling-up of form which was started from December, 2021, the entire process of examination is long since over and the results have been published.

14. Accordingly, the writ petition is dismissed being devoid of merit.

15. Urgent certified copy of the order be granted as per rules.

Copy of the order be uploaded.

(M.S. Sahoo)
Judge

