

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C). No.10759 of 2022

Chittaranjan Dash

....

Petitioner(s)
Mr.A.P.Bose, Advocate

-versus-

State of Odisha & Ors.

....

Opp.Party(s)
Mr. D.Mohapatra,
Advocate

CORAM:
JUSTICE BISWANATH RATH

ORDER
02.05.2022

Order No.

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1. Heard learned counsel appearing for the parties.
2. Taking this Court to the development through page-9, 30 and then page- 8 of the brief further in support with pleading therein, Mr.Bose, learned counsel for the petitioner submitted that when the Development Authority vide page-9 of the brief issued a revocation show cause notice on 29.03.2022 consequent upon which petitioner files its response on 12.04.2022 appearing at page-10 (Annexure-3) appears to have been received under the seal and signature in the office of the Bhubaneswar Development Authority on 12.04.2022, running page-30, the Authority passed final order on 19.04.2022 vide Annexure-1 at page-8 indicating no receipt of show cause of the petitioner pursuant to letter dated 29.03.2022. It is through the above, Mr.Bose, learned counsel for the petitioner establishes that the order at Annexure-1 has been passed mechanically and without even taking into account the response to the show cause of the petitioner already in their custody. For the submission of Mr.Bose, learned counsel for the petitioner, as disclosed through Annexure-1, that the authority has no scope for consideration of response even if filed by the petitioner on the premises that the response was submitted by the petitioner is not an indicator of the show cause notice dated 29.03.2022. Mr.Mohapatra,

learned counsel appearing for the Bhubaneswar Development Authority however has no quarrel on the allegation that the order at Annexure-1 is an unreasoned one.

3. Considering the rival contentions of the parties, this Court finds undisputedly the petitioner was issued with a revocation show cause notice on 29.03.2022 as a consequence petitioner appears to have already submitted his response on 12.04.2022 in which the kind attention portion reads as follows:

‘Kind Attention:- The Authorized Officer, Planning Department, BDA.’

Further the reference portion also reads as follows:

“ Your office letter No.11358 dated 29.03.2022.”

Not only that from page- 30 of the brief also clearly appears the Development Authority is already in receipt of show cause response filed by the petitioner on 12.04.2022 but the response is also pursuant to correspondence dated 29.3.2022.

4. In the circumstance, this Court finds there has been mechanical disposal of the issue involved by the Development Authority. The impugned order suffers on both count (i) even after receipt of show cause response indicator that the authority not to have receive any show cause response, there is no consideration of the same & (ii) there is also no reasoning in passing such order. But however since there is requirement of consideration of notice vide Annexure-2, on setting aside the impugned order at Annexure-1. The matter is remitted back to the Authorized Officer, Bhubaneswar Development Authority-opposite party no.4 to take up the proceeding involved afresh, consider the objection of the petitioner at Annexure-3 and take decision, as appropriate, involving the issue however also providing an opportunity of hearing to the petitioner. Petitioner may appear before the competent authority along with certified copy of this order on 09.05.2022.

5. The writ petition stands disposed of with the observation and direction made hereinabove.

(Biswanath Rath)
Judge

Sks

