

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.9258 OF 2008

Hemanta Panigrahi

....

Petitioner

Mr.S.K.Rath, Advocate

-versus-

Orissa Primary Education Authority & Ors.

Opposite Party(s) .

***Mr.P.K.Mohanty,
Adv. (O.P.No.1)***

***Mr.M.K.Mohanty,
adv. (O.P.No.5)***

***Mr.S.Das, Adv
(O.P.No.4)***

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
25.11.2022**

**Order
No.12**

1. Heard learned counsel appearing for the parties.
2. This writ petition involves the following prayer:

“The petitioner therefore prays this Hon’ble Court may be pleased to issue in the nature of Mandamus in directing Opposite parties to pay an amount of Rs.1,24,366/- (One lakh twenty four thousand three hundred sixty six) only as per the joint verification report (Annexure-1);

And this Hon’ble Court may direct the Opposite parties to take disciplinary action as per the report of D.S.P. Vigilance and letter or the Collector dt.10.5.2006 (Annexure-7) as against Opposite party No.5;

And further may direct the S.P., Vigilance to initiate Criminal action under Prevention of Corruption Act as per the report of D.S.P., Vigilance against Opposite party No.5;

And this Hon’ble Court in ends of justice may modulate prayer and direct the Opposite party No.1 & 2 to take action as per the note sheet in Annexure-8;

And may pass any other order/orders, writ/writs, direction/directions as this Hon’ble court deems fit and proper;

And for this act of kindness, the petitioner shall as in duty bound, ever pray.”

3. Background involving the case is that petitioner claiming to be a order supplier in the district of Angul, undertaking civil works also involving the Sarba Sikhya Abhijan. On the premises that he has executed some work being entrusted by opposite party no.5 and even after completion of such work, there is no making of payment to the petitioner. Writ petition has been brought seeking a direction to the opposite parties to make over an amount of Rs.1,24,366/- taking into account the supplies and work done. Giving rise to the report of the S.P., vigilance filed at Anenxure-1, reading through the same, an attempt is also made to establish that the petitioner Hemanta Panigrahi in the Vigilance Proceeding also produced a alerter written by Mr Jagannath Mishra, Technical Consultant calculating in his own handwriting demanding 10 percent of work amounting to Rs.75,780/- including percentage for himself. It is in this background of the matter, Mr. Rath, learned counsel for the petitioner also taking this Court to the material disclosures through Anenxure-3 claimed that there is room for undertaking certain works through the Technical Consultant and Headmaster in the project involved and for there is some disclosure on the involvement of the petitioner in undertaking the work indicated herein, petitioner is deserved to be paid to the amount involving such

work. In the above background, Mr.Rath, learned counsel claimed for allowing the writ petition.

4. Mr.Mohanty, learned counsel appearing for the OPEPA on the other hand while disputing the locus of the petitioner, reading through the counter affidavit and documents appended therein raised serious objection on the locus of the petitioner in challenging that at no point of time there is engagement of the petitioner by this organization. In the above circumstance, it is urged by Mr.Mohanty that in the event the petitioner was negated by opposite party no.5, the dispute involved herein may be between the petitioner and opposite party no.5 and in no circumstance the Department should be dragged into such litigation. Taking this Court to the document appended to the counter affidavit at Annexure-A/3, there is however no denial as to engagement of Technical Consultant and Headmaster in the event the project cannot be completed by VEC due to legal dispute or any other problem.

5. Mr.M.K.Mohanty, learned counsel appearing for the opposite party no.5 attempting to support the counter affidavit of opposite party nos.1 and 2 made a flat denial in the engagement of the petitioner by him. For the limited role involved herein, Mr.S.Das, learned counsel appearing for the Vigilance Department however has no denial on the

existence of a report of the Vigilance Authority vide Anenxure-1 to the writ petition.

6. Considering the rival contentions of the parties, and going through tire pleading and documents appended, this Court nowhere finds at least a piece of paper establishing that the petitioner was engaged by the opposite party nos.1 to 3 at any point of time. On the own submission of petitioner, he has made an attempt to produce some document of the Vigilance Authority in establishing that opposite party no.5 on some indications in his own writing regarding the percentage, this Court here for the involvement of a vigilance report and reading through the vigilance report finds there is there is recording to the fact that Hemanta Panigrhi produced a paper written by Jagannath Mishra – opposite party no.5 calculating in his own handwriting demanding 10 % of the working amounting to Rs.75,780/- including percentage for himself. Reading the observation of the Vigilance Department and going through the supporting documents appended herein, this Court even though finds there is possibility of assignment of work involved through the Technical Consultant but nowhere finds any trace even in the engagement of Hemanta Panigrahi-petitioner by the Department concerned.

7. In the circumstance, this Court finds force in the submission of Department counsel that the matter involving the claim becomes a dispute between Hemanta Panigrahi-petitioner and Jagannath Mishra-opposite party no.5. For involvement of a private dispute, there is no room for issuing a direction from this Court in exercise of power under Article 226 of the Constitution of India. While dismissing the writ petition as not entertainable, this Court however observes since petitioner was bonafidely moving this Court and writ Court entertained such dispute since 2008 kept pending herein all through, petitioner, if so advised, may avail appropriate remedy involving the dispute involved herein.

8. With this observation, the writ petition stands disposed of.

(Biswanath Rath)
Judge