

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10932 of 2022

Samaresh Mohanty

..... Petitioner
Mr. Manas Pati, Advocate

-versus-

State of Odisha and others

..... Opposite Parties
Mr. P.C. Das, ASC for State

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
09.05.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. This writ petition has been filed by the Petitioner with the following relief:

“It is, therefore, prayed that this Hon’ble Court may graciously be pleased to quash the order dated 07.10.2020 & 22.04.2022 under Annexures-7 & 12 with all consequential service and financial benefits. And/or pass such other order/orders as this Hon’ble Court may deems fit and proper for the ends of justice;

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

4. It is submitted by leaned counsel for the Petitioner that while appeal was pending, the Deputy Secretary to Government in Planning & Convergence Department wrote a letter to the Director, Economics and Statistics, Odisha, Bhubaneswar, Opposite Party No.2, dated 22.04.2022 (Annexure-11) and whereunder the Opposite

Party No.2 was asked to implement the order of punishment dated 7.10.2020 passed by the Disciplinary Authority, i.e. Director, Economics & Statistics in Disciplinary Proceeding drawn up against the Petitioner, vide Memorandum No.4088 dated 8.5.2012. It is further submitted by the learned counsel for the Petitioner that while the Petitioner preferred an appeal before the Appellate Authority, the Government is insisting on implementing the order passed by the Disciplinary Authority. In this context, learned counsel for the Petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of *State Bank of Patiala and another vs. Ram Niwas Bansal (Dead) through L.Rs.*, reported in *AIR 2014 SC 1264*. He further submits that in the aforesaid judgment, the Hon'ble Supreme Court has categorically held that the punishment on the delinquent officer/employee cannot be imposed with retrospective effect. It is further submitted that during pendency of the appeal, the Appellate Authority has sought for certain clarification. However, during the pendency of the same, government is insisting on complying with the order of punishment.

5. Learned counsel for the State, on the other hand, submits that since the appeal is pending before the Statutory Appellate Authority, the present writ petition is not maintainable at this stage. He further submits that whatever grievance the Petitioner has, he has to raise it before the said Authority, who is competent to take a decision in the matter.

6. In such view of the matter and considering the submissions of the Parties, this Court is inclined to dispose of the writ petition with a direction to the Petitioner to raise all such grounds as are available to him in law before the Appellate Authority and the

Appellate Authority shall do well to dispose of the Appeal by passing a speaking and reasoned order within a period of eight weeks from the date of production of certified copy of this order. Further, it is open for the Petitioner to seek interim protection by filing Interlocutory Application before the Appellate Authority. In such event, the application of the Petitioner shall be considered on its own merit and in accordance with law.

7. With the above direction, the writ petition stands disposed of.
8. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge

U.K.Sahoo

