

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.372 of 2022

Krushna Chandra Nayak & Ors.

Petitioner(s)

Mr. S.K. Panda,
Advocate

-versus-

Sanjay Ram Chandra Nayak & Ors.

Opposite Party(s)

CORAM:

JUSTICE BISWANATH RATH

ORDER

05.05.2022

Order No.

01. 1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. This C.M.P. involves rejection of an application at the instance of the Petitioners i.e. the Defendant Nos.5, 6 & 7 to call for certain documents relating to the Holding Tax No.364 from the Soro Municipality on the premises that such information and/or documents are relevant for the purpose of effective decision in the suit.
2. During course of hearing taking this Court to the documents at page 30 & 31 of the brief Mr. Panda, learned counsel for the Petitioners submitted that Petitioners have made attempt to get the certified copy of the documents involved therein in exercise of the power under the provisions of the Right to Information Act, 2005 (hereinafter in short be reflected as “the Act, 2005”) and on the premises that there is no response to the attempt of the Petitioners by the Public Information Officer, the Petitioners are constrained to file

application at Annexure-5 for calling for such records from the Office of the Soro Municipality. It is thus claimed by Mr. Panda, learned counsel for the Petitioners that there is illegal rejection of such application of the Petitioners.

In the circumstance Mr. Panda, learned counsel for the Petitioners submitted that the trial court should have appreciated the fact that there is failure on the part of the Public Information Officer in discharging its duties and allowed the application instead of rejecting the same by the impugned order.

3. Considering the contentions raised by Mr. Panda, learned counsel, but without entering into the question; as to the necessity of such documents at this stage, this Court looking to the nature of demand made before the trial court, but for the background that the Petitioners have made their endeavor to procure such public documents in exercise of power under the Act, 2005, observes, in the event the Public Information Officer fails in undertaking the exercise under the provision of the Act, 2005, there is sufficient provision to challenge such action of the Public Information Officer under the Act, 2005 itself, for the opinion of this Court, unless the Petitioners complete such exercise under the Act, 2005, they have no scope of moving the Civil Court for calling for such document.

In the circumstance, this Court finds, the application filed for calling for documents from the Office of the Soro Municipality remains premature. Thus while observing that there is no requirement to interfere in the impugned order, it is also clarified that in the event the Petitioners ultimately fail in their attempt in getting such documents even after exhausting the exercise under the provision of the Act, 2005, it may be open to the Petitioners to file such application for fresh consideration of the Trial Court. The Trial Court may

accommodate the Petitioners in this regard at least for two months, within which period the Petitioners will have to complete their exercise under the provisions of the Right to Information Act, 2005.

4. The C.M.P. stands disposed of with the above observation.

(Biswanath Rath)
Judge

Ayaskanta Jena

