

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11676 of 2022

Hrushikesh Baliarsingh

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

19.05.2022

Order No

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. L.P.Dwivedy, learned counsel for the Petitioner and Mr. Y.S.P. Babu, learned Addl. Government Advocate for the State.
3. The Writ Petition has been filed with the following prayer:-

“(i) Quash the Disciplinary Proceeding, drawn up against the Petitioner by the Opp.Party No.4 as at Annexure-2 by concurrently holding the same is bad, illegal, without jurisdiction and is not maintainable or sustainable in the eye of law”.
4. It is submitted by the learned counsel for the Petitioner that the proceeding under Annexure-2 has been initiated by the Commandant, OSAP, 4th BN, Rourkela, who is not otherwise competent to initiate the said proceeding.
5. It is also submitted that the Commandant, OSAP, 4th BN, Rourkela being not the appointing authority, no proceeding could have been initiated at his instance.

6. Accordingly, learned counsel for the Petitioner prayed for interference of this Court in the matter.

7. On instruction Mr. Babu, learned counsel for the State-Opposite Parties submitted that even though the Commandant, OSAP, 4th BN, Rourkela is not the appointing authority, but basing on some clarification issued by the Odisha Police State Head Quarter, Cuttack, some authorities have been bestowed with the power to take such action. But the said submission of Mr. Babu was strongly repudiated by Mr. Dwivedy, learned counsel for the Petitioner.

8. In view of such rival stand taken by the learned counsel appearing for both the Parties, this Court observes that if the Petitioner files a detailed application before the Opposite Party No.2 within a period of ten days hence, challenging the competency of the Commandant, OSAP, 4th BN, Rourkela in initiating the proceeding under Annexure-2, the said opposite party shall take a lawful decision on the same by giving an opportunity of hearing to the Petitioner within a period of four weeks from the date of receipt of such application.

9. It is observed that till such a decision is taken by the Opposite Party No.2, Opposite Party No.4 shall not proceed with the proceeding so initiated against the Petitioner under Annexure-2.

10. With the aforesaid observations and directions, the Writ Petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge

