

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.13573 OF 2022

Ramakanta Nayak

.....

Petitioner

Mr. Kunal Kumar Swain, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Dipti Ranjan Mahapatra,
Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

10.06.2022

Order No.

1. 1. This matter is taken up through hybrid mode.
2. This writ petition has been filed with a prayer to direct the Opposite Parties not to terminate the services of the Petitioner without taking recourse to the provisions of O.C.S.(CCA) Rules, 1962 and the principles of natural justice keeping in view the interim order dated 10th February, 2022 passed by this Court in a similar matter, i.e. I.A. No. 1929 of 2022 (arising out of W.P.(C) No.3995 of 2022).
3. Mr. Swain, learned counsel for the Petitioner submits that on the allegation that the Petitioner has produced a fake O.T.E.T. Certificate, process was initiated to terminate his services. Assailing the same, the Petitioner had preferred W.P.(C) No. 273 of 2022, which was disposed of by this Court vide order dated 6th January, 2022 with an observation that the services of the Petitioner shall not be terminated without taking recourse to the provisions of O.C.S.(CCA) Rules, 1962 (for short 'the Rules'). He further

submits that when the matter stood thus, the Director of Elementary Education, Odisha, Bhubaneswar vide his Letter No.16897 dated 18th October, 2021 under Annexure-5 communicated all the District Education Officers/Block Education Officers/District Project Coordinator to terminate the services of teachers by initiating proceeding under Rule 15 of the Rules after making enquiry for allegedly submitting fake Certificate. Referring to the case of one Sri Amiya Kumar Baral at Sl.No. 92 to the enclosure of Annexure-5, he submits that a direction has been issued to terminate his services even without initiating a proceeding under the provisions of Rules. In that view of the matter, the Petitioner apprehends his termination at any moment. It is his submission that no proceeding under Rule 15 of the Rules has yet been initiated. But, since the authorities are bent upon to terminate his services, the Petitioner finding no other alternative has filed this writ petition.

4. In course of hearing, Mr. Swain, learned counsel for the Petitioner refers to the interim order passed in W.P.(C) No. 35505 of 2021, wherein this Court vide order dated 12th November, 2021 passed the following order:

“1. This matter is taken up through hybrid mode.

2. Mr. Mohanty, learned Standing Counsel for the School and Mass Education Department prays for some time to take instruction in the matter.

3. Put up this matter on 16th November, 2021.

4. Instruction, if any, shall be obtained in the meantime positively.

5. It is made clear that the Petitioner shall not be terminated before culmination of the disciplinary proceeding initiated against him.”

5. He also refers to the interim order passed in W.P.(C) No.13636 of 2022, wherein this Court vide order dated 27th May, 2022 passed the following order:

- “1. This matter is taken up through Hybrid Mode.*
- 2. Heard learned counsel for the Petitioner.*
- 3. Issue notice to the opposite parties.*
- 4. Since Mr. Biswajit Mohanty, learned Standing Counsel for the School and Mass Education Department accepts notice on behalf of Opposite Party Nos.1 to 5, no notice be issued to them. Let five extra copies of the writ petition be served on him within three working days.*
- 5. One copy of the writ petition be served on Mr. S.S. Rao, learned counsel, who usually appears for Board of Secondary Education, Odisha, Opposite Party No.6.*
- 6. Counter affidavit, if any, be filed within four weeks.*
- 7. List this matter in the week commencing 18th July, 2022.”*

I.A. No. 7225 of 2022

- 1. Heard.*
- 2. Issue notice as above.*
- 3. Accept one set of process fee.*
- 4. In the interim, it is directed that no coercive action shall be taken against the Petitioner till the next date.”*

6. In that view of the matter, Mr. Swain, learned counsel submits that the Petitioner deserves an equal treatment.

7. Mr. Mohapatra, learned Standing Counsel for the School and Mass Education Department submits that this writ petition is misconceived as the Petitioner had already moved this Court in W.P.(C) No. 273 of 2022, wherein observation has been made to the effect that the services of the Petitioner shall not be terminated without taking recourse to the provisions of the Rules. It is his submission that action for submission of fake certificate has been

taken pursuant to the direction of this Court in W.P.(C) No. 18752 of 2018, wherein this Court has expressed concern over the appointment of teachers producing fake certificate. Since there is already a direction in W.P.(C) No. 273 of 2022 and in view of the communication under Annexure-5, the Petitioner's apprehension is baseless and this writ petition merits no consideration.

8. Taking into consideration the rival contentions of learned counsel for the parties and on perusal of the case record, it reveals that the Petitioner apprehending his termination without following due procedure of law had moved this Court in W.P.(C) No.273 of 2022, wherein this Court directed not to terminate the services of the Petitioner without taking recourse to the provisions of the Rules. On perusal of Annexure-5, it does not reveal that the Director of Elementary Education, Odisha, Bhubaneswar has made any observation to terminate the services of teachers, who have allegedly produced fake certificate, without following due procedure of law. On the other hand, it has been clearly observed in the said letter that action as per law should be taken after initiating proceeding under Rule 15 of the Rules. The case of Sri Amiya Kumar Baral, which has been referred to by the Petitioner, cannot be taken into consideration in absence of any material to that effect. It is further observed that pursuant to the direction of this Court in W.P.(C) No. 18752 of 2018, the authorities under the Directorate of Elementary Education, Odisha, Bhubaneswar have taken step for termination of services of teachers, who have allegedly produced fake certificate.

9. In view of the fact that there is already a direction in W.P.(C) No.273 of 2022 that the Petitioner shall not be terminated

without taking recourse to the provisions of the Rules and the contents of Annexure-5, the apprehension of the Petitioner is baseless. Accordingly, this writ petition merits no consideration and stands dismissed.

Urgent certified copy of this order be granted on proper application.

bks

(K.R. Mohapatra)
Vacation Judge

