

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.13756 of 2022

Gyana Ranjan Parida

....

Petitioner(s)

Mr. L.N. Pattnaik,
Advocate

-versus-

***Commissioner-cum-Secretary to
Govt. of Odisha & Anr.***

....

Opposite Party(s)

Mr. S. Mishra,
A.S.C for O.P.1
Mr. D. Mohapatra,
Advocate O.P.2

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
23.06.2022**

Order No.

03.

1. This writ petition involves the following prayer:-

“It is therefore prayed that your Lordships’ would be graciously pleased to admit the writ petition issue notice the O.Ps and after hearing the counsels from both the sides issue Writ / Writs in the nature of Mandamus directing the Opp.party No.2 not to demolish unauthorized construction of the petitioner;

AND / OR pass such other order / orders, relief / relief(s) deemed fit and proper;”

2. Through the pleadings made in this writ petition the Petitioner alleges that there is some deviation in the plan approval vide Annexure-1. The Petitioner has also a pending application under the “Sarbakshyama Scheme” for regularization of the unauthorized construction before the Bhubaneswar Development Authority. Drawing the attention of this Court to the document at Annexure-4 learned counsel for the Petitioner establishes pendency of such

application with the competent authority. It is alleged that during pendency of this application there has been attempt for demolition of such unauthorized construction. It is argued that for the pendency of the application, there should not be any attempt to demolish the unauthorized construction and the Public Authority should at least await decision involving such application.

3. Mr. Mohapatra, learned counsel for the Development Authority on instruction submitted that the regularization aspect can be considered provided the unauthorized construction comes under the covering of scheme meant for the purpose and there cannot be regularization of illegal construction beyond the authorized area.

4. Considering that the application for regularization of the unauthorized construction is pending with the authority, this Court does not like to entertain the writ petition by entering into controversy presently and leaves it open to the Bhubaneswar Development Authority to take a lawful decision on the application of the Petitioner vide Annexure-4 and if necessary, entering into an appropriate inquiry involving the Petitioner and also involving the Petitioner, within a period of two months from the date of communication of an authenticated copy of this order by the Petitioner.

5. Petitioner is directed to serve a copy of this order on the competent authority and take the date of measurement/ on spot enquiry, if any. It is also directed that the Petitioner will cooperate the measurement process to be undertaken by the authority to facilitate disposal of his own application.

6. The writ petition stands disposed of with the above direction.

(Biswanath Rath)
Judge