

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15300 of 2022

Nishi Kanta Mandal

....

Petitioner

*Mr. Budhadev Routray, Sr. Advocate and
Mr. S. K. Samal, Advocate*

-versus-

State of Odisha and others

....

Opposite Parties

Mr. P.C. Das, ASC

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

27.06.2022

Order No.

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

“It is therefore, most humbly prayed that this Hon’ble Court be graciously pleased to

- i) Admit the writ application.
- ii) Call for the record.
- iii) Issue Rule NISI calling upon the Opp. Parties more particularly Opp. Party No.4 to show cause as to why the impugned order dated 14.02.2022 under Annexure-6 in appointing the Opp. Party No.5 and 6 as Inquiring Officer shall not be quashed.
- iv) If the Opp. Parties failed to show cause or show insufficient cause, issue a writ in the nature of

certiorari or pass any other writ/writs, direction/directions by quashing the impugned order dated 14.02.2022 under Annexure-6 in appointing the Opp. Party No.5 and 6 as Inquiring Officer.

- v) Issue a writ in mandamus or any other writ/writs, direction/directions, directing the opposite parties, more particularly Opp. Parties No.4 to change the Opp. Party No.5 and 6 as Inquiry Officer and to appoint any other appropriate/suitable authority as Inquiring Officer and further direct the Opp. Parties to pay the increment as due and admissible to the petitioner within a reasonable time to be stipulated by this Hon'ble Court.
- vi) And/or pass such other order/orders, direction/directions as this Hon'ble Court may deems fit and proper.

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

4. At the outset, learned ASC appearing on behalf of the OPs. questions the maintainability of writ petition in view of Section 67-B of Orissa Cooperative Societies Act, 1962. Section 67-B of the Act came into force w.e.f. 1.5.1993. He further submits that any dispute pertaining to any subject matter under Clause (i) of Section 67-B is a dispute within the meaning of that clause and the decision of the Tribunal thereon shall be final and shall not be called in question in any Court. The dispute as regard to disciplinary action taken by the Society or Committee shall have to be raised before the Orissa Co-operative Tribunal within the purview of Section 67-B of the said Act.

5. Learned counsel for the Petitioner on the other hand submits that notwithstanding anything contained in any law for the time being in force, any dispute arising in connection with the election or

its committee against any paid servant of the Society who is not a workman within the meaning of Clause(s) of Section (2) of the Industrial Disputes Act, 1947 shall be referred to the Tribunal in the manner and within the period prescribed in that behalf. Further it is submitted that any decision affecting the fundamental right of the Petitioner, this Court has jurisdiction to consider and adjudicate such disputes.

6. Considering the submissions made and upon careful examination of the provisions of law, this Court is of the considered view that the submission advanced by learned Sr. Advocate for the Petitioner that there is no bar in law for this Court to exercise its jurisdiction under Article 226 of the Constitution of India, is not applicable to the facts and circumstances of the present case and the statute in question provides for alternative remedy in the shape of the Co-operative Tribunal under Section 67-B of the Act.

7. Having heard the contention of both the parties and keeping in view the facts and circumstances of the present case, this Court feels it proper that the Orissa Cooperative Tribunal is competent to adjudicate the present dispute under Section 67-B of Orissa Co-operative Society Act. In such view of the matter, the Petitioner is directed to approach the Orissa Cooperative Tribunal within a period of two weeks from today by filing a properly constituted application in accordance with law. In such event, learned Tribunal shall do well to decide the same in accordance with law. This Court further observes that till the Petitioner approaches the Co-operative Tribunal by filling appropriate application for grant of interim order, the impugned order under Annexure-6 dated 14.2.2022 shall not be given effect to for a period of four weeks. Learned Tribunal is

further directed to take up the application for interim order and decide the same within four weeks. It is further submitted by learned counsel for the Petitioner that he has also filed an application against stoppage of increment since September, 2020 and the Authorities have not taken any decision on such application of the Petitioner.

8. It is made clear that the Tribunal has jurisdiction under Section 67-B of the Orissa Co-operative Tribunal Act and considering the said aspect of the matter in the event the Petitioner raises the said issue before the Tribunal by filling application, the same shall be adjudicated in accordance with law.

9. With the above direction, the writ petition stands disposed of.

10. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge