

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 6836 of 2017

Jyotirmaya Sadangi

.... **Petitioner**
Mr.K.K. Swain, Advocate

- Versus -

State of Odisha & Others

.... **Opp.Parties**

Mr. R.N. Acharya,
Standing Counsel for S & ME Dept.

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

22.08.2022

Order No.
07.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned Standing Counsel for School and Mass Education Department.
3. This is the third journey of the petitioner to this Court for redressal of his grievance. The petitioner's grievance as laid in the prayer portion of the writ petition is as follows:

“(a) an appropriate writ be issued quashing the order dated 11.1.2017 passed by the Collector-cum-Chief Executive Officer, Zilla Parishad, Kandhamal under Annexure-8 and necessary direction be made to the O.Ps to release the monthly remuneration of the petitioner for the period from 30.06.2006 to 31.03.2008, i.e., the period he has worked as Education Volunteer and he may be absorbed as Ganasikhyak in terms of the resolution dated 16.02.2008 within a time to be stipulated by this Hon'ble Court;

And

(b) any other order/orders or direction/directions be issued so as to give complete relief to the petitioner;

4. The petitioner had earlier approached this Court in W.P.(C) No. 6785 of 2009, which was disposed of vide order dated 05.05.2009 inter alia with the following directions:

“ xx

xx

xx

4. Considering the plight of retrenched Education Volunteer, this Court disposes of the Writ Petition directing opposite party No.1 to cause an enquiry and if satisfied that the petitioner had discharged his duties for the period from 30.06.2006 to 31.03.2008 and his arrears have not been paid, pass appropriate orders for disbursement of the same as expeditiously as possible preferably within a period of three months from the date of receipt of this order."

5. However, the petitioner's prayer being rejected again, he approached this Court in W.P.(C) No.16122 of 2010 which was disposed of vide order dated 05.08.2016 inter alia with the following directions;

"In view thereof the petitioner is given liberty to approach before the Collector, Kandhamal giving therein all details including the document as contained in Annexure-4 and other relevant documents within two weeks from the date of receipt of copy of this order.

The Collector, Kandhamal shall take a decision in accordance with law within reasonable period preferably within four weeks from the date of receipt of copy of this order.

It is made clear that if the Collector, Kandhamal came to conclusion that the school in question has been closed w.e.f. 1.10.2005 there is no requirement to pass fresh order.

The Collector is expected to look into the matter regarding communication dtd.12.12.2006 and pass speaking order.

Accordingly the writ petition stand disposed of."

6. A perusal of the impugned order does not reveal that the documents referred as Annexure-4 or other documents relied upon by the petitioner were taken into consideration by the Collector before passing the impugned order. Further, no opportunity of hearing whatsoever was granted to him. As it appears, the Collector has referred to the previous order dated 03.05.2010 passed by the then Collector to record his satisfaction that the EGS Center in question has been closed since 01.10.2005. Obviously, this is contrary to the spirit of the direction issued by

this Court, inasmuch as neither the documents relied upon by the petitioner have been considered nor he was granted an opportunity of hearing. It goes without saying that a quasi judicial authority is required to give due opportunity of hearing before passing any order. Further such order also has to be supported by cogent reasons. But as stated earlier, the impugned order is a mere reproduction of the previous order and therefore, cannot be treated as speaking in nature.

7. Having regard to the above, this Court is of the considered view that the impugned order cannot be sustained in the eye of law and is therefore, quashed. The matter is remitted to the Collector, Kandhamal to consider the claim of the petitioner afresh after taking into account the documents referred to by the petitioner as indicated in order dated 05.08.2016 passed by this Court in W.P.(C) No. 16122 of 2010. The Collector shall also grant an opportunity of hearing to the petitioner and pass a reasoned order. The above exercise shall be completed within a period of four weeks from the date of communication of this order or on production of certified copy thereof by the petitioner.

8. The writ petition is disposed of accordingly.

9. Issue urgent certified copy as per Rules.

(Sashikanta Mishra)
Judge

A.K. Rana