

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.17104 of 2022

(Through Hybrid mode)

Dr. Pabitra Mohan Mallik

....

Petitioner

Mr. Kshirod Kumar Rout, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. S.S.K. Nayak, Advocate

Mr.A.K. Sharma, Addl. Government Advocate

CORAM: JUSTICE ARINDAM SINHA

ORDER
22.07.2022

Order No.

01. 1. Mr. Rout, learned advocate appears on behalf of petitioner. He submits, under challenge is, inter alia, notification dated 28th June, 2022 issued by Central Election Committee (CEC) for election to posts of Executives, Central Working Committee, Odisha Medical Services Association (OMSA). He relies on constitution of OMSA, clause 17. The clause is reproduced below.

“There shall be a Central Working Committee consisting of all the directly elected members from General Body. They are State President, three Zonal Vice Presidents, State General Secretary, State Treasurer, three Zonal Joint Secretaries, three CEC members, Managing editor “OMSA voice”. The tenure of the office bearers/CWC members of the Association is for two completed consecutive “Association years”

unless extended for a specific purpose for not more than 30 days by Central Executive Committee.”

2. He submits, tenure of two years of the Central Executive Committee ended in year 2021. The said Committee could not have appointed Central Election Committee. It is only the general body, who can elect members to the Central Election Committee. Sub-clause (e) in Clause 12 provides for the general body to elect office bearers of the association and members of such committee as have been specified in the constitution. Central Election Committee is one such committee. He seeks interference.

3. Mr. Nayak, learned advocate appears on behalf of opposite party no.5 (OMSA). He refers to **order dated 18th May, 2022** of this Bench in **WP(C) no.4012 of 2022 (petitioner’s own case)**, paragraph-9 reproduced below.

“9. Mr. Acharya submits, there should be direction upon the central executive committee to immediately constitute central election committee for purpose of holding elections in the association. Mr. Nayak submits, such a direction be made. However, there is no submission made on behalf of petitioner nor State.”

He submits, pursuant to direction in said order, the elections have been notified. It was duly done. Petitioner is a trouble maker and does not want elections to be held. In any event on commencement of the election process, there should not be interference.

4. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State and submits, sub-clause

(v) under part - VI provides for procedures. Said clause says, tenure of office bearers of the executives will be for a period of two years to be extended for not more than thirty days.

5. On scrutiny of impugned notification it appears Central Executive Committee in exercise of power conferred under clause/section 29 in their resolution dated 8th August, 2021 communicated by letter dated 9th September, 2021, constituted the Central Election Committee, which following said order dated 18th May, 2022 (supra), notified the election. On query from Court parties have not been able to demonstrate from the constitution, tenure of the Central Executive Committee. Nothing has also been shown to raise dispute regarding said resolution dated 8th August, 2021 and communication dated 9th September, 2021 made by the Central Executive Committee. In the circumstances, Court finds nothing wrong with the notification.

6. The writ petition is found to be without merit. Same is dismissed.

(Arindam Sinha)
Judge

RKS