

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 1121 of 2022

Pabitra Mohan Mallik

....

Appellant

Mr. Saswat Kumar Acharya, Advocate

-versus-

State of Odisha and others

....

Respondents

Mr. M.K. Khuntia, AGA

Mr. S.S.K. Nayak, Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

ORDER

29.08.2022

Order No.

- 02.
1. The challenge in the present writ appeal is to an order dated 22nd July 2022, passed by the learned Single Judge, dismissing the Appellant's W.P.(C) No.17104 of 2022. The challenge in the said writ petition was to a Notification being No.36 dated 28th June, 2022 issued by the Central Election Committee, Odisha Medical Services Association (OMSA), inviting applications from the eligible candidates to contest the various posts of the Central Working Committee (CWC) of the OMSA.
 2. It was contended by the present Appellant before the learned Single Judge that the time for filing of such nominations also was unduly short and contrary to the by-laws of OMSA. The learned Single Judge dismissed the writ petition on the ground that "parties have not been able to demonstrate from the constitution, tenure of the CEC. Nothing has also been shown to raise dispute regarding

said resolution dated 8th August, 2021 and communication dated 9th September, 2021 made by the CEC.”

3. It is submitted by Mr. Saswat Kumar Acharya, learned counsel appearing for the Appellant that the learned Single Judge proceeded on an erroneous premise that the tenure of the CEC was not fixed or that its constitution was not placed before the learned Single Judge. He submits that in fact the CEC does have a fixed tenure.

4. Be that as it may, the Court finds that the polling process is already underway and in fact today is the date of the polling. At this stage, neither the learned Single Judge could have interfered nor can this Court entertain the challenge. The legal position in this regard has been explained in a series of Judgments of the Supreme Court including *Shaji K. Joseph v. V. Viswanath and others AIR 2016 SC1094*.

5. All grounds of challenge that the Appellant may have can be reserved to be raised at the appropriate stage after the election is over and at a stage where the result thereof is required, if at all, to be challenged by the present Appellant.

6. Consequently, the Court is not inclined to interfere with the impugned order of the learned Single Judge. The appeal is dismissed in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge