

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.22479 OF 2022

Iswar Chandra Martha and others ***Petitioner(s)***
Mr.S.K.Jethy,Adv.

-versus-

State of Odisha and others ***Opposite Party(s)***
Mr.S.Mishra,ASC

CORAM:
JUSTICE BISWANATH RATH

ORDER
01.12.2022

Order No.

05.

1. Heard learned counsel for the Parties.
2. This Court by the order dated 24.09.2022 passed the following order:-

This Court finds, there is serious allegation that the ExSarpanch even though has received required money from all the complainants/Petitioners in the matter of allotment of shop rooms and permitted the Petitioners to occupy the shop rooms presently, but for no grant of shop room and non-consideration of the case of the Petitioners in the fresh allotment, giving rise the Petitioners to bring this litigation. It is complained that the Petitioners have not only made complaint to the Collector, Khurda on 12th May, 2022, but such allegation was also made in the previous round of litigation in W.P.(C) No.21261 of 2021 disposed of on 9.08.2021. Sri Jethy, learned counsel for the Petitioners claims, once such serious allegation was brought to the Collector, it was necessary to give a finding to such complaint and then to proceed in the matter of allotment.

2. This Court finding serious allegation involved herein and for the decision in non-consideration of the case of the Petitioners herein appears to have been passed in non-consideration of such serious allegation, this Court directs for issuing notice on the question of admission.

3. Since all the Opposite Parties will be represented by the learned State Counsel, no notice be issued to them. Let

four extra copies of the brief be served on the learned State Counsel within three working days hence.

4. Learned State Counsel is also directed to file an affidavit of the Collector indicating as to what decision has been taken by the Collector, Khurda on the complaint of the Petitioners at page 15A of the brief and also file an affidavit clearly disclosing that in the consideration of the allotment, if the Petitioners' complaint was placed or not?, besides producing the decision file of the Collector involved on the next date.

5. List this matter on 27th October, 2022.

I.A. No.11971 of 2022

1. Issue notice as above.

2. It is directed that at least five shop rooms may not be allotted to anybody else without leave of the Court provided there is no allotment of shop rooms involved herein as of now. Petitioners, if any, in occupation of such shop room should go on depositing the rent provided in the new allotment, if any.

3. pursuant to which, it appears Opposite Party No.2 has filed an affidavit on 26.10.2022 in para-3 disclosing as herein below:-

“That as regards consideration of allotment of shop rooms as prayed by the petitioners in their complaint at page-15-A, it is humbly submitted that the B.D.O. Khurda Block, reported the Collector, Khurda that no allotment of shop room have been made till date and a decision regarding allotment of shop rooms would be taken following due procedures and as per the Govt guidelines and prayer of the petitioners shall be taken into consideration with regard to allotment of shop rooms. The copy of the letter No.1951/ dtd 25.10.2022 of the Collector, Khurda is annexed herewith and marked as Annexure-A/2.”

4. In the above assurance further giving into the document at Annexure-A/2 appended such affidavit, this Court finds there is in fact, no allotment of the shop rooms involving the area involved herein. Not only that through the letter vide Annexure-A/2 there is even assurance for considering application of the Petitioners as and when there shall be decision on the allotment involved. In this view

of the matter this Court finds, the Writ Petition does not survive any further.

5. Thus while disposing of the Writ Petition, this Court hopes and expects the Authority shall be abided their assurance through Annexure-A/2 with due attachment of the complaint of the Petitioners while taking decision on the issue involved herein.

6. The Writ Petition thus stands disposed of.

(Biswanath Rath)
Judge

Swarna

