

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.23102 OF 2022

Subash Chandra Sahoo

....

Petitioner

Ms.D.Mahapatra, Adv.

-versus-

State of Odisha & ors.

....

Opposite Party(s)

Mr.S.Ghosh, AGA
Mr.D.Mohapatra, Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
28.10.2022**

Order No.

3. 1. Heard learned counsel for the Parties.
2. The Writ Petition involves the following prayer :-

“It is therefore prayed that this Hon’ble Court may graciously be pleased to issue rule Nisi to the opposite parties and if the opposite parties will fail to show cause or shown insufficient cause, make the said Rule absolute by directing the opposite parties to deliver possession of the plot in question to the petitioner and further be pleased to quash the show cause notice dated 24.7.2015 under Annexure-5..”

3. This Court finds, the Writ Petition involves a challenge to the inaction of the Development Authority in taking a final decision even after the Petitioner submitted his explanation/clarification to the queries involved, vide Annexure-4. Upon issuing notice, the Development Authority has appeared and filed counter justifying their action. This Court observes, notice involved though indicates

the sole allegation of allotment in favour of the Petitioner under discretionary quota by the Vice-Chairman, Cuttack Development Authority, Paragraph-6 of the counter affidavit brings the following to the notice of the Court.

“6. That in reply to the averments made in Paragraph No.11 to 16 of the writ petition, it is humbly submitted that the petitioner will be afforded opportunity of hearing and it will be ascertained as to whether his allotment is in consonance with the brochure conditions and as to whether he or his family members have been allotted any other plot(s) and as to whether this petitioner/members of his family sold away the same and thereafter got the allotment through discretionary quota. The concerned Authority will also examine the propriety of the present allotment under discretionary quota keeping in view the law laid down by the Hon’ble High Court giving opportunity of hearing to the petitioner.”

4. Reading the contentions in Paragraph-6 of the counter of the Development Authority, it appears the Development Authority is unable to find as to whether the family members of the Petitioner are already in allotment of any plot involving the same Development Authority. Even though this Court finds a clarification is already there through the response of the Petitioner, vide Annexure-4, however, for doubt raised by the Development Authority to find the case of the Petitioner covered under the judgment of this Court in W.P.(C) No.5274/2022 decided on 19.7.2022, this Court to find a complete resolve on the issue involved, it is better if the Petitioner files an affidavit meeting the requirement in Paragraph-6 of the

counter enabling the Development Authority for taking a final call on the issue involved, vide Annexure-3. Let the Petitioner file appropriate affidavit within seven days hence and consequent upon receipt of such affidavit, the Development Authority shall involve the Petitioner and conclude the proceeding, vide Annexure-3 at least within a period of fifteen days thereafter. In the event the Authority is satisfied with the affidavit to be filed by the Petitioner and the case of the Petitioner stands covered by the judgment of this Court and necessary arrangement for handing over possession shall also be made within fifteen days thereafter.

5. With the above order, the Writ Petition stands disposed of.
6. Issue urgent certified copy.

(Biswanath Rath)
Judge

M.K.Rout