

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC(OAC) NO.1397 OF 2010

Deepak Kumar Mahanta

....

Petitioner

-versus-

State of Odisha & Others

....

Opp. Parties

COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

Order No

14.10.2022

5. 1. This matter is taken up through Hybrid Mode.

2. Heard Mr. R.K. Patnaik, learned counsel for the petitioner, Mr. B. Prusty, learned A.S.C and Mr. M. K. Balabantaray, learned Standing Counsel appearing for the Collector, Keonjhar-Opp. Party No.1.

3. This Writ Petition has been filed with the following prayer.

*To quash the impugned order of disengagement
dtd.16.4.2010 at Annexure-6*

*To direct to the respondents for reconsideration of
appointment by modifying the disengagement order and
to restration of services by extending the service
benefits.*

4. It is submitted that the petitioner was appointed as a contractual Hindi Teacher vide order dated 8.8.2008 under Annexure-1. It is submitted that while so continuing, without issuing any show-cause and without affording any opportunity of hearing, the petitioner was disengaged from his service vide the impugned order dated 16.4.2010 under Annexure-6. It is submitted that since no show-cause was issued and no opportunity of hearing was given to the petitioner,

the order of disengagement issued under Annexure-6 is not only illegal but also contrary to the decision of this Court reported in 2011 (1) OLR 963. This Court in the said reported judgment has held as follows:

“As the order impugned has been passed on the next day of the inspection without affording an opportunity of hearing to the petitioner, we are of the opinion, even if the petitioner is not a regular employee, the principle of natural justice demands that the authority should have afforded an opportunity of hearing to the petitioner before taking action which would ultimately involve civil consequence and prejudicially affect the petitioner.”

5. Mr. Patnaik, learned counsel for the petitioner also relied on another decision of the Hon'ble Apex Court reported in the case of **Menaka Gandhi Vs. Union of India**. Hon'ble Apex Court in the said decision has observed as follows:

6. Mr. Balabantaray, learned Standing Counsel appearing for the Collector, Keonjhar on the other hand submitted that the petitioner seeking his reinstatement by challenging the order of disengagement has already approached the Collector under Annexure-7. Therefore, during pendency of the matter before the Collector, the present writ petition is not maintainable.

7. Mr. Prusty, learned A.S.C on the other hand submitted that the petitioner after completion of his term has been disengaged and no illegality has been committed by the authority in disengaging him after completion of his term.

8. To the submissions made by the learned counsel appearing for the opp. parties, Mr. Patnaik, learned counsel appearing for the petitioner submitted that learned Tribunal while issuing notice of the matter vide order dated 13.5.2010, passed an interim order restraining the opp. parties from filling of the post of appointing another person in the post of vacated by the applicant, and the said interim order is continuing as on date. Accordingly it is submitted that if necessary direction is issued to the Collector, Keonjhar to take a fresh decision, the grievance of the petitioner will be mitigated.

9. Having heard learned counsel for the parties and after going through the materials available on record, this Court finds that prior to issuing the order of disengagement under Annexure-6, the petitioner was never show-caused nor any opportunity of hearing was given. Therefore, in view of the decision relied on by Mr. Patnaik, this Court finds that the said order has been passed in complete violation of natural justice. Therefore, this Court is inclined to quash the order dated 16.4.2010 issued under Annexure-6, and while quashing the same, directs opp. party no.1 to take a fresh decision by giving a personal hearing to the petitioner. It is also observed that while taking such a decision, the said opp. party No.1 shall take into consideration the said representation made by the Village Education Committee under Annexure-8 to the writ petition. Opp. Party No.1 is directed to take a

fresh decision as directed hereinabove within a period of two months from the date of receipt of this order.

10. The Writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

sangita

