

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.25281 of 2022

**Surya Prakasha Arta Bidyadhar
Mangaraj**

Petitioner

-versus-

State of Odisha & Ors.

Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
27.09.2022**

Order No

01.1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. On the oral prayer made by Mr. Managaraj, he is permitted to implead ALR –cum- Addl. SECY., Law Department as O.P. No. 5 in Court today.

3. Heard Mr. Surya Prakasha Arta Bidyadhar, in Person and Mr. A.P. Das, learned ASC appearing for the appearing for the Opp. Parties.

4. The Petitioner has filed the present writ Petition with the following prayer:-

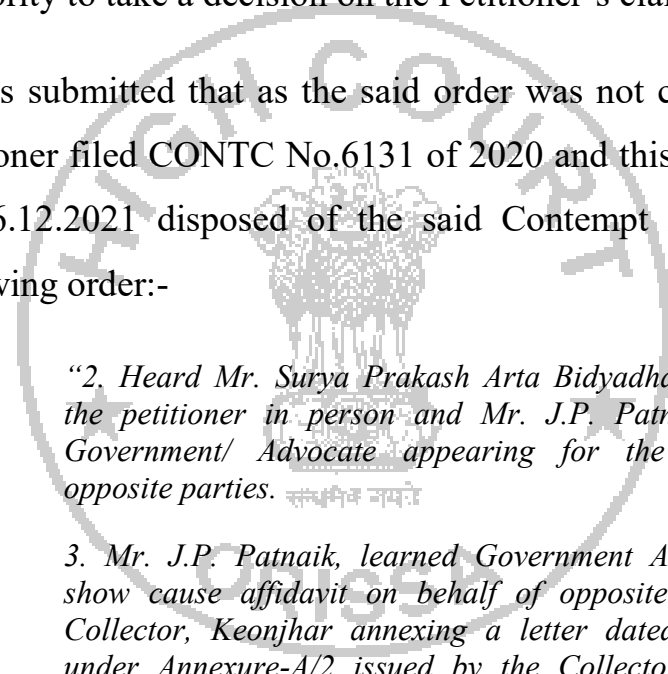
“It is therefore humbly prayed that this Hon'ble Court may graciously be pleased to

- a) Admit the Writ Petition, Issue Rule NISI in the nature of writ of mandamus to direct the appointing authority (opposite party no-1) for engage as Legal Assistance Lawyer in Bancho Gram Panchayat MASS CELL under Hatadihi Block against vacancy on basis of Rule-5 recommended three names panel list as per Annexure - 2series where single name available after two lawyers resignation as per Annexure -3 and also consider the representation dtd.05.09.2022 as per Annexure – 4 within stipulated time.*
- b) And may pass such other appropriate order / orders, direction/ 24 SEP 70072 directions and grant any other relief/reliefs to which the petitioner is entitled;*

And for which act of kindness, the petitioner as in duty bound shall ever pray.”

5. It is submitted that in the recommendation made by the Collector and District Magistrate, Keonjhar in his communication dtd.18.09.2017 under Annexure-2 series the Petitioner's name was indicated at Sl. No. 2 in respect of Bancho Gram Panchayat under Hatadihi Block for engagement as legal Assistance Lawyer. But the Petitioner when was not engaged as such, he approached this Court in W.P.(C) No.2674 of 2020. This Court vide order dtd.28.01.2020 disposed of the said writ Petition with a direction on the concerned Authority to take a decision on the Petitioner's claim.

6. It is submitted that as the said order was not complied with the Petitioner filed CONTC No.6131 of 2020 and this Court vide order dtd.06.12.2021 disposed of the said Contempt Petition with the following order:-

“2. Heard Mr. Surya Prakash Arta Bidyadhar Mangaraj, the petitioner in person and Mr. J.P. Patnaik, learned Government/ Advocate appearing for the contemnor-opposite parties.  

3. Mr. J.P. Patnaik, learned Government Advocate files show cause affidavit on behalf of opposite party no.2-Collector, Keonjhar annexing a letter dated 04.12.2021 under Annexure-A/2 issued by the Collector & District Magistrate, Keonjhar, wherein the name of the petitioner along with one Harihar Mishra has been recommended to the 2 A.L.R.-cum-Addl. Secretary to Govt. Law Department for -consideration of appointment as Legal Assistance Lawyer in Banchoa G.P. under Hatadihi Block of Keonjhar district.

4. Since the case of the petitioner has been recommended pursuant to Annexure-A/2 dated 04.12.2021, the contempt proceeding is hereby dropped.”

7. It is submitted that in the meantime the person placed at Sl. No. 1 of the list under annexure-2 namely Mr. Harihar Mishra though was

engaged vide order dtd.23.12.221, but he tendered his resignation as reflected from the communication dtd.25.08.2022 under Annexure-3. It is submitted that since the Petitioner is the only left over candidate, who has been recommended for his appointment to the post in question, even after tendering of the resignation by the engaged person with due acceptance, no further action is taken by the Law Department to engage the Petitioner.

8. In view of the submission made by Mr. Mangaraj, this Court finds that as against the two persons recommended vide the letter dtd.04.12.2021 the person placed at Sl. No. 1 though was engaged as Legal Assistance Lawyer in Bancho Panchayat, but the said person has already tendered his resignation and it has been accepted also. Therefore, in view of such factual position the present writ Petition is disposed of with a direction on the O.P. No. 5 to take appropriate action with regard to engagement of the Petitioner as against the post, which has been vacated with the resignation of Mr. Harihar Mishra. The said Opp. Party shall take a decision on the Petitioner's claim within a period of one month from the date of receipt of this order.

9. The writ Petition is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Sneha