

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 23550 of 2019

State of Odisha and othres

.....

Petitioner

Mr. A.K. Mishra, AGA

Vs.

Ramesh Chandra Patel and another

.....

Opposite Parties

Mr. M. Pati, Adv.

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

07.09.2022

Order No.

05.

This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Mishra, learned Addl. Government Advocate appearing for the State-Petitioners and Mr. M. Pati, learned counsel appearing for opposite party no.1.

3. The State and its functionaries have filed this writ petition challenging the order dated 15.04.2019 passed in O.A. No. 351 of 2017, by which Odisha Administrative Tribunal, Principal Bench, Bhubaneswar has held that even though opposite party no.1 has been convicted by the Special Judge (Vigilance), Sambalpur in its order dated 06.08.2003 for corruption charges for misappropriation of Rs.5,332/-, but fact remains that High Court has suspended the sentence awarded by the trial court, vide order dated 18.08.2004. Thereafter, for more than 12 years, the State-Petitioners did not take any steps against the opposite party no.1. But at a belated stage, issued the order impugned dated 02.03.2017 inviting representation from him as to why he will not be dismissed from the government service under Rule-18 of the O.C.S. (C.C.&A) Rules, 1962 read with Article 311 (2) of the Constitution of India and such a notice is not tenable in view of

suspension of sentence order passed by the High Court, as stated above. By holding so, the tribunal has quashed the order dated 02.03.2017 passed by the authority and accordingly disposed of the original application.

4. Mr. A.K. Mishra, learned Addl. Government Advocate appearing for the State-Petitioners contended that the tribunal has committed error in quashing the order dated 02.03.2017 on the ground that sentence imposed by the trial court has been set aside by this Court. It is contended that since the matter is pending before this Court for consideration, the order passed by the tribunal cannot sustain in the eye of law.

5. Mr. M. Pati, learned counsel appearing for opposite party no.1 contended that during pendency of the writ petition, opposite party no.1 has already been acquitted of the charges vide judgment dated 25.11.2021 passed by this Court in CRLA No. 208 of 2003.

6. In the above view of the matter, since opposite party no.1 has already been acquitted by this Court vide judgment dated 25.11.2021 passed in CRLA No. 208 of 2003, by setting aside the order dated 06.08.2003 passed by the trial court in T.R. Case No. 14 of 1995, nothing remains to be adjudicated in the present writ petition.

7. Accordingly, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE