

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.26873 of 2022

Ghasiram Rout

....

Petitioner

Mr. Ashok Das, Advocate

-versus-

1. State of Odisha

**2. The Collector -cum-
District Magistrate,
Nuapada**

**3. The Sub-Collector,
Nuapada**

**4. The District Panchayat
Officer, Nuapada**

**5. The B.D.O., Sinapali,
Nuapada**

6. The C.S.O., Nuapada

7. The P.E.O.,

Gandabahali, Nuapada

....

Opp. Parties

*Mr. Saswat Das,
Addl. Government Advocate*

**CORAM:
JUSTICE S.K. SAHOO**

ORDER

09.11.2022

Order No.

01. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

In the writ petition, the petitioner Ghasiram Rout has sought for a direction to the opposite party

no.2, the Collector -cum- District Magistrate, Nuapada to appoint him as Jogana Sahayaka of Gandabahali Gram Panchayat under Sinapali Block in the district of Nuapada.

The petitioner was engaged as Jogana Sahayaka on contractual basis in Gandabahali Gram Panchayat, Sinapali Block under Nuapada district and one F.I.R. was lodged against him before the Officer in-charge of Sinapali police station by the Executive Officer, Gandabahali Gram Panchayat on the accusation that the petitioner has not distributed PDS kerosene to the beneficiaries from August, 2019 to April, 2020 and accordingly, Sinapali P.S. Case No.106 dated 29.06.2020 was registered under section 409 of the Indian Penal Code and section 7 of the Essential Commodities Act. The petitioner was asked to handover the charge on 22.06.2020.

Learned counsel for the petitioner submitted that the petitioner faced trial in the Court of learned J.M.F.C., Sinapali in connection with the aforesaid F.I.R. which corresponds to C.T. Case No.99 of 2020/ T.R. No.05 of 2021 and vide judgment and order dated 14.07.2022, it was held that the prosecution has failed to prove its case against the petitioner beyond all reasonable doubt and accordingly, he was held not guilty for the offences punishable under section 409 of the Indian Penal Code read with section

7 of the Essential Commodities Act and acquitted. Learned counsel further submitted that in view of the order of acquittal, the petitioner should be reinstated as Jogana Sahayaka in Gandabadali Gram Panchayat and in that connection, he has submitted his representation under Annexure-6 before the opposite party no.2, the Collector -cum- District Magistrate, Nuapada on 19.09.2022 annexing the copy of the appointment order, copy of the F.I.R. and copy of the acquittal order but the representation is still pending and necessary direction may be issued to the opposite party no.2 to dispose of the representation after giving an opportunity of hearing to the petitioner.

Learned counsel for the State, on the other hand, relied on a decision of the Hon'ble Supreme Court in the case of **Union Territory, Chandigarh Administration and others -Vrs.- Pradeep Kumar and another reported in (2018) 1 Supreme Court Cases 797** and referring to the paragraph-10, it is stated that the acquittal in a criminal case is not conclusive of the suitability of the candidates in the post concerned and if a person is acquitted or discharged, it cannot always be inferred that he was falsely involved or he had no criminal antecedents. Learned counsel for the State also highlighted that another person has been duly selected and appointed as Jogana Sahayak and a right has accrued in his

favour and he should also be given an opportunity of hearing while considering the representation of the petitioner.

Be that as it may, without expressing any opinion on the merits of the case and since the opposite party no.2 is in seisin over the matter, let him take a decision on the Annexure-6 within a period of two months from the date of production of the certified copy of the order by the petitioner, which shall be done within a period of one week hence after giving opportunity of hearing not only to the petitioner but also to other side and to the person who has been selected and discharging his duty as Jogana Sahayak. It is made clear that no opinion has been given on the acceptability otherwise the grounds taken in the representation and the opposite party no.2 is at liberty to consider the Annexure-6 in accordance with law.

With the aforesaid observation, the writ petition stands disposed of.

A free copy of this order be handed over to the learned counsel for the State.

(S.K. Sahoo)
Judge