

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.27097 OF 2022

Pravasis Behera

....

Petitioner

Mr.J.K.Mishra, Adv.

-versus-

State of Orissa & anr.

....

Opposite Party(s)

Mr.S.Ghosh, AGA

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
24.11.2022**

Order No.

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

“The Petitioner, therefore, most respectfully prays that your Lordship’s may graciously be pleased to admit the writ petition and issue notice to the Opp.Parties to show cause as to why the impugned order shall not be quashed and further as to why a direction shall not be issued to the B.D.O. to return the deposited amount. And on their failing to show cause or showing insufficient cause make the rule absolute and this Hon’ble Court may quash the impugned order dated 27.10.2021 vide Annexure-4 and further direct the B.D.O., Baliapal to return the deposited amount to the Petitioner.”

3. 3. Bringing to the notice of this Court the development through Annexure-1 to 3, Mr.Mishra, learned counsel for the Petitioner submits that there has been right release of the benefits involved herein. Taking this Court to the order at Annexure-4, Mr.Mishra

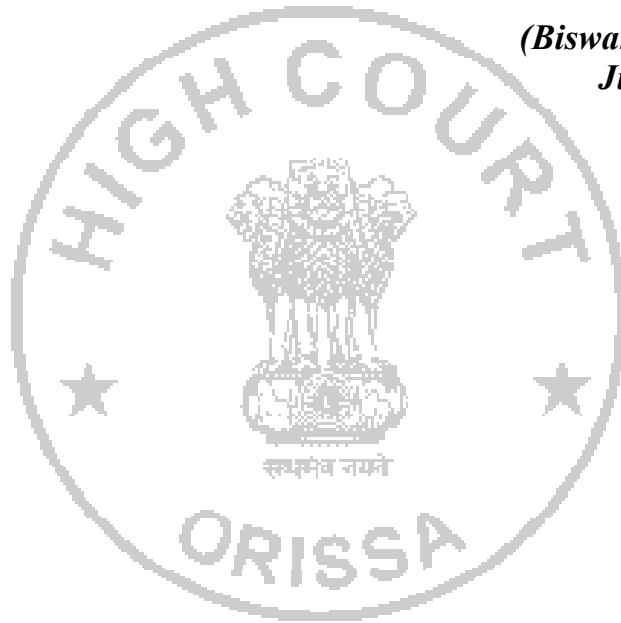
contended, there has been illegal issuing of notice of recovery from the Petitioner. It is further alleged, in spite of the Petitioner raising objection, vide Annexure-5 to the communication of recovery at Annexure-4, there is no decision on the same as of now and in the meantime, there has been illegal realization of Rs.45,000/- towards the share of the Petitioner involved therein. Submission is also made for interfering with the notice at Annexure-4 and thereby directing the Public Authority to refund the amount so collected.

4. Learned Additional Government Advocate, however, raised objection to the claim of the Petitioner and submitted, on the issuing of recovery notice, vide Annexure-4 since the Petitioner has already submitted his objection to the B.D.O., Baliapal, O.P.3, a lawful decision on such objection is desired.

5. Considering the rival contentions of the Parties and as this Court finds, the Petitioner has already resisted the direction for realization, vide Annexure-4, this Court is of the view that the B.D.O., Baliapal, O.P.3 is duty-bound to take a call on the objection of the Petitioner. Accordingly, in disposal of the Writ Petition, this Court directs O.P.3 to look into the grievance of the Petitioner, vide Annexure-5 vis-à-vis the recovery notice, vide Annexure-4 and take a lawful decision on the same by completing the entire exercise

within a period of three weeks from the date of communication of this order. While considering the objection of the Petitioner, the Authority may also take into account the development through Annexure-1 & 2. It is observed, in the event, the decision goes in favour of the Petitioner, the amount collected under Annexure-6 shall be refunded to the Petitioner forthwith.

M.K.Rout



(Biswanath Rath)
Judge