

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.27151 of 2022

Usharani Behera

....

Petitioner(s)

Ms. D. Mahapatra,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. S.P. Panda,
AGA for O.Ps.1 & 4
Mr. D. Mohapatra,
Advocate for O.P.2

CORAM:
JUSTICE BISWANATH RATH

ORDER
01.11.2022

Order No.

02.

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

“Under the facts and circumstances as narrated above, this Hon’ble Court may graciously be pleased to issue Rule Nisi to the opposite parties and if the opposite parties will fail to show cause or shown insufficient cause, make the said Rule absolute by directing the opposite parties to deliver possession of the plot in question to the petitioner and further be pleased to quash the show cause notice dated 29.07.2015 under Annexure-4;

And further be pleased to pass any other order / orders as may be deemed fit and proper.”

3. This Court finds, the Writ Petition involves a challenge to the inaction of the Development Authority in taking a final decision even after the Petitioner submitted his explanation / clarification to the queries involved, vide Annexure-4. Upon issuing notice, the Development Authority has appeared and justified their action by relying on the counter affidavit already filed in W.P.(C) No.23102 of

2022. This Court observes, notice involved though indicates the sole allegation of allotment in favour of the Petitioner under discretionary quota by the Vice-Chairman, Cuttack Development Authority, the paragraph no.6 of the counter affidavit filed in W.P.(C) No.23102 of 2022 brings the following to the notice of the Court.

“6. That in reply to the averments made in Paragraph No.11 to 16 of the writ petition, it is humbly submitted that the petitioner will be afforded opportunity of hearing and it will be ascertained as to whether his allotment is in consonance with the brochure conditions and as to whether he or his family members have been allotted any other plot(s) and as to whether this petitioner / members of his family sold away the same and thereafter got the allotment through discretionary quota. The concerned Authority will also examine the property of the present allotment under discretionary quota keeping in view the law laid down by the Hon’ble High Court giving opportunity of hearing to the petitioner.”

4. Reading the contentions in Paragraph-6 of the counter of the Development Authority, it appears, the Development Authority is unable to find as to whether the family members of the Petitioner are already in allotment of any plot involving the same Development Authority. Even though this Court finds, a clarification is already there through the response of the Petitioner, vide Annexure-5, however, for doubt raised by the Development Authority to find whether the case of the Petitioner is covered under the judgment of this Court in W.P.(C) No.5274 of 2022 decided on 19.07.2022, this Court to find a complete resolve on the issue involved observes, it would be better, if the Petitioner files an affidavit meeting the requirement in paragraph no.6 of the counter enabling the Development Authority for taking a final call on the issue involved, vide Annexures-3 & 4. Let the Petitioner file appropriate affidavit within seven days hence and consequent upon receipt of such affidavit, the Development Authority shall involve the Petitioner and conclude the proceeding, vide Annexures-3 & 4 at least

within a period of fifteen days thereafter. In the event the Authority is satisfied with the affidavit to be filed by the Petitioner and if the case of the Petitioner stands covered by the judgment of this Court, necessary arrangement for handing over possession shall also be made within a period of fifteen days thereafter.

5. With the above order the Writ Petition stands disposed of.
6. Issue urgent certified copy.

(Biswanath Rath)
Judge

Ayaskanta Jena

