

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OA) No.512 of 2018

Kailash Chandra Behera

....

Petitioner

-versus-

State of odisha & Others

....

Opp. Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

13.09.2022

Order No

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. A.Swain, learned counsel for the Petitioner and Mr. N.N.Satapathy, learned standing counsel appearing for the Opp. Parties.
3. The present Writ Petition has been filed by the Petitioner challenging the initiation of the disciplinary proceeding against the Petitioner on 22.02.2018 under Annexure-6.
4. It is submitted that the person who was initiated the proceeding against the Petitioner is not competent as it is the only Director being the disciplinary authority, competent to initiate such proceeding.
5. Accordingly, Mr. Swain learned counsel for the Petitioner submitted that since the proceeding has been initiated by the authority, who is not the competent, the said proceeding is liable to be quashed by this Court.
6. A counter affidavit has been filed by the Opposite Party No.3. As revealed from Para-8 of the said counter, the Government in the Department of School & Mass Education Department vide

letter dated 27.01.2018, directed the Director Elementary Education, Orissa, Bhubaneswar to proceed against the petitioner under OCS (CCA) Rules, 1962.

7. It is submitted that though the Director is the competent to initiate the proceeding but the Director referred the matter to the D.E.O, who in turn initiated the proceeding under Annexure-6.

8. In view of such admitted fact as taken in the counter affidavit, this Court finds that the proceeding initiated against the Petitioner by the D.E.O is not maintainable. Therefore, while quashing the same liberty is given to the opposite parties to initiate the proceeding by the competent authority, if it is desirable to do so at present.

9. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Subrat