

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C)(OAC) No.03 of 2016**

**Abhaya Kumar Dash**

**....**

**Petitioner**

**-versus-**

**Director, Elementary Education, ....  
Odisha & Ors.**

**Opposite Parties**

**CORAM:**

**JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER**

**15.07.2022**

**Order No**

**04.**

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. G.R. Sethi, learned counsel for the Petitioner and Mr. Biplab Mohanty, learned standing counsel appearing for the Department.

3. The present writ Petition has been filed by the Petitioner challenging the order of disengagement passed by the Collector, Sarva Sikhya Abhiyan (S.S.A.), Kendrapara vide office order No.2385 dtd.20.08.2015 under Annexure-6.

4. Mr. Sethi, learned counsel for the Petitioner submitted that the Petitioner vide order dtd.18.12.2007 under Annexure-1 was engaged as a Sikhya Sahayak and while continuing as such the Petitioner was regularized as a Primary school teacher vide office order dtd.15.07.2015 under Annexure-3.

5. It is further submitted that while working as such as a regular primary school teacher pursuant to the order issued under Annexure-3, the Petitioner was issued with a show-cause by the Collector vide show cause notice No.2264 dtd.05.08.2015. In the said show cause, the Petitioner was directed to file his explanation within a period of ten (10) days,

6. Mr. Sethi, learned counsel for the Petitioner submitted that the said letter was received by the Petitioner on 14.08.2015 and the Petitioner vide his letter dtd.22.08.2015 prayed for grant of some more time to file his explanation under Annexure-5. It is submitted that in the meantime and prior to submission of any explanation and without following the principle of nature justice as well as the provisions of the OCS (CCA) Rules, 1962, the Petitioner was straight away disengaged vide office order dtd.20.08.2015 under Annexure-6.

7. It is submitted that since the Petitioner was a regular primary school teacher, the Authorities are required to follow the provision of OCS (CCA) Rules, 1962 and since that has not been followed the order of disengagement is not sustainable in the eye of law.

8. Mr. Mohanty, learned Standing Counsel on the other hand submitted that even though vide office order dtd.15.07.2015 under Annexure-3 the Petitioner was regularized as a regular primary school teacher, but since the Petitioner did not turn up for verification of the documents or educational certificate nor received his order of regularization, the Petitioner cannot be treated as a regular primary school teacher.

9. It is also submitted that since the Petitioner remained on leave for a pretty long period and during his absence another person worked

in the said school on his behalf without any authority, the show cause was issued under Annexure-4, since no explanation was made to that show cause, the Petitioner has been rightly disengaged.

**10.** A rejoinder has been filed by the Petitioner indicating therein that in the order dtd.15.07.2015 under Annexure-3, there is no such stipulation for verification of the educational certificate and for issuance of individual orders of regularization. It is accordingly submitted that since there is no pre condition in the said order dtd.15.07.2015 to appear before the concerned Authority for verification of documents and to receive the formal order of regularization, the stand taken by the Opp. Parties in the counter cannot be accepted.

**11.** Mr. Mohanty also failed to satisfy this court with regard to the condition that on his regularization concerned teacher is to appear for verification of documents and receive formal order of regularization.

**12.** Heard learned counsel appearing for the Parties. Perused the materials available on record. This Court after going through the same finds that the Petitioner was regularized as a regular primary school teacher vide order under Annexure- 3 and accordingly the provisions of the OCS (CCA) Rules, 1962 is squarely applicable to his case. O.P. No. 2 prior to disengaging the Petitioner should have followed the said provision.

**13.** Since O.P. No. 2 has not followed the said provision, prima facie this Court is of the view that the order of disengagement has been issued in a haste by the said O.P. No. 2. Therefore, this Court has got no hesitation in quashing the said order dd.20.08.2015 and

directs the Collector to reinstate the Petitioner within a period of 15 days from the date of receipt of this order.

**14.** However, it is observed that the said O.P. No. 2 is at liberty to initiate necessary action against the Petitioner in terms of the provision contained under OCS (CCA) Rules, 1962, if there is any cause of action.

**15.** The writ Petition is disposed of with the aforesaid observation and directions.

*Sneha*



**(Biraja Prasanna Satapathy)**  
**Judge**