

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) NO.27869 OF 2022

Smrutiprava Pradhan

....

Petitioner

-versus-

State of Odisha & Others

....

Opp. Parties

COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY

Order
No

ORDER
21.10.2022

1. 1. This matter is taken up through Hybrid Mode.
2. Heard Mr. G.R. Sethi, learned counsel for the petitioner and Mr. Choudhury S. Mishra, learned A.G.A.
3. The petitioner is aggrieved by the completion of the enquiry by the Enquiry Officer vide Annexure-5 to the writ petition dated 28.9.2022. It is submitted that though the petitioner is facing a proceeding in Keonjhar Proceeding No.27 of 2020, but because of her posting under Superintendent of Police, Berhampur, she expressed her difficulties in appearing before the Enquiry Officer in the said proceeding and requested Superintendent of Police, Berhampur in that regard. It is submitted that though vide letter under Annexure-4 series, Superintendent of Police, Berhampur, requested Opp. Party No.3 to fix another date of enquiry, but it is submitted that the enquiry officer without considering such request made by the Superintendent of Police, Berhampur proceeded with the enquiry by examining P.W.s and closing the

enquiry from the prosecution side. It is also submitted that the enquiry officer proceeded with the enquiry in absence of the Marshalling Officer and the said fact is also reflected in Annexure—5.

4. Taking into account the grounds taken in the writ petition, more particularly, the communication issued under Annexure-4 series, this Court finds that the Enquiry Officer in the aforesaid proceeding has proceeded with the enquiry without considering the request made by the Superintendent of Police, Berhampur. Not only that, this Court also finds that the Enquiry Officer has conducted the enquiry in absence of the Marshalling Officer. Therefore, this Court is of the view that the process of enquiry so conducted by the Enquiry Officer and reflected in Annexure-5 is not acceptable and while interfering with the same, this Court directs Opp. Party No.4-Addl. Superintendent Of Police, Keonjhar-cum-Enquiry Officer to conduct the enquiry by giving an opportunity to the petitioner. It is also observed that the said enquiry shall be conducted in presence of the Marshalling Officer so appointed. In order to avoid any delay, this Court while quashing the enquiry so conducted in absence of the petitioner, directs Opp. Party No.4 to proceed with the enquiry from the stage of examination of P.Ws.

5. Petitioner is directed to appear before the Enquiry Officer along with a copy of this order within a period of

7(seven) days from the date of receipt of this order and on such appearance of the petitioner, Opp. Party No.4 shall fix a fresh date of enquiry on which date, the petitioner shall appear and take part in the proceeding. However, it is observed that the enquiry should be conducted in presence of the Marshalling Officer and if the present Marshalling Officer is unable to participate in the enquiry, the enquiry officer may take appropriate step for change of the Marshalling Officer.

6. With the aforesaid observation and direction, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

sangita

