

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.1654 of 2015

Jyostna Naik

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

21.06.2022

Order No

01.

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

2. Heard learned counsel appearing for the Parties.

3. The Petitioner is aggrieved by the order passed by the CDMO, Sundargarh on 16.04.2001 under Annexure-6.

4. It is submitted by Mr. Dwivedy, learned counsel for the Petitioner that vide the said order the benefit extended in favour of the Petitioner vide Order dtd.13.11.2013 under Annexure-4 has been withdrawn and the Petitioner has been directed to pay the excess amount that was drawn by her.

5. It is submitted that prior to taking such a decision under Annexure-6 basing on Annexure-5 the Petitioner was never issued with any show cause nor an opportunity of hearing is given to her. Accordingly, it is submitted that since the order at Annexure-6 has

been issued in complete violation of principle of natural justice, the said order is liable to set aside by this Court.

6. Mr. Das, learned counsel appearing for the State on the other hand submitted that the order at Annexure-6 has been issued basing on the clarification issued by the Govt. under Annexure-5. Even though notice of the matter was issued by this Court on 23.05.2015, no counter affidavit has been filed till date.

7. In the case in hand in absence of any counter, this Court relying on the pleadings made by the Petitioner finds that the order at Annexure-6 has been issued without giving any opportunity of hearing to the Petitioner. Since the Petitioner was extended with the benefit vide order at Annexure-4, the Authority prior to taking a new decision should have issued a show cause or at least should have given an opportunity of hearing to the Petitioner. Since admittedly the same thing has not been followed, this Court has got no hesitation in quashing the order at Annexure-6 so far as it relates to the Petitioner. While quashing the same, this Court remits the matter to the CDMO, Sundargarh-O.P. No. 3 to take a fresh decision by giving an opportunity of hearing to the Petitioner as well as by affording a personal hearing.

8. It is however observed since the Petitioner was extended with the benefit by virtue of an order passed by the Competent Authority under Annexure-4, no recovery should have been directed without giving an opportunity of hearing.

9. CDMO, Sundargarh-O.P. No. 3 is directed to take a fresh decision within a period of four months from the date of receipt of the order. The Petitioner is directed to produce a copy of this order before the said Opp. Party within ten (10) days hence.

10. With the aforesaid observation and direction the writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Sneha

