

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC (OAC) No. 3479 of 2015

Prafulla Kumar Bahinipati **Petitioner**

None

-versus-

State of Odisha & others **Opp. Parties**

Mr. P.K. Muduli, AGA for O.Ps.1,2 & 4

Mr. B.A. Prusty, SC (School and Mass Education) for O.P. No.3

None for O.P. 5

CORAM:
JUSTICE M.S. SAHOO

ORDER
28.09.2022

Order No.

02.

1. This matter is taken up through hybrid mode.
2. None appears for the petitioner, when the matter is called.
3. None had appeared for the petitioner, when the matter was last taken up on 12.07.2022, after hearing the learned counsel for the State granting another opportunity to the petitioner, the following order was passed:-

“2. The writ petition has been registered before this Court on 22.12.2021, after the Original Application was transferred from the learned Odisha Administrative Tribunal, Cuttack Bench, Cuttack upon its abolition.

3. On perusal of the available order-sheets of the learned Tribunal, it is indicated that notices were issued by the learned Tribunal on 01.02.2016 and the matter was never taken up/pursued after 22.09.2016. Counter on behalf of opposite party no.3 dated 21.09.2015 filed by the learned

Tribunal is available on record.

4. None appears for the petitioner when the matter is called.

5. Learned Standing Counsel referring to the averments made in the Original Application as well as the counter filed before the learned Tribunal, submits that a departmental proceeding was initiated enclosed to the counter marked as Annexure-E/3 dated 04.03.2009, on the allegation of misappropriation of college funds. The enquiry report prior to the initiation of the proceeding that is also enclosed as Annexure-D/3.

6. It is submitted by the learned Standing Counsel that considering the nature of grievance, i.e., challenge to initiation of a departmental proceeding following OCS (CCA Rules), nothing would survive at present as in all likelihood, the proceeding would have been completed. Further, the handing over of the power of drawing and disbursing authority dated 08.09.2015 to a person other than the petitioner, cannot be faulted with.

7. It is submitted that the power of drawing and disbursing authority, can be assigned to any officer by the appropriate authority.

8. Lastly it is submitted in any event, the petitioner would have retired in the year around 2017 on attaining age of superannuation and nothing would survive at present for adjudication before this Court.

9. Having heard learned Standing Counsel for the School and Mass Education Department, to grant another opportunity to the petitioner, list on 29.07.2022.”

4. Learned Addl. Govt. Advocate as well as learned Standing Counsel for the School and Mass Education Department reiterate the stand taken by the opposite

parties-State that following the initiation of the department proceeding, the action of the authority withdrawing financial drawing and disbursing power from the petitioner by order dated 08.09.2015 and assigning the said power to another officer, cannot be faulted with.

5. Learned Addl. Govt. Advocate reiterates the submissions as noted in the earlier order dated 12.07.2022 that the petitioner would have retired in the year around 2017 on attaining the age of superannuation.

6. Having heard the learned Addl. Govt. Advocate and learned Standing Counsel for the School and Mass Education Department, in view of lack of prosecution from the petitioner, the writ petition is disposed of.

