

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C. (OA) No.1920 of 2016

Bhagirathi Prusty

....

Petitioner

None

-versus-

State of Odisha and Others

....

Opposite Parties

Mr. Prasanna Kumar Mohanty, ASC

CORAM:

JUSTICE M.S. RAMAN

ORDER

08.08.2022

Order No.

03.

1. This matter is taken up through virtual/physical mode.
2. The Original Application No.1920 of 2016 was filed before the Odisha Administrative Tribunal, Bhubaneswar Bench, Bhubaneswar. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OA) No.1920 of 2016.
3. Heard Mr. Prasanna Kumar Mohanty, learned Additional Standing Counsel.
4. The case of the petitioner is that while serving as Court Sub-Inspector of Bhanjanagar Court departmental proceeding as also Vigilance Case simultaneously proceeded and in both the proceedings the basis of charge (s) is identical. Therefore, the petitioner prays to quash the departmental proceedings as well as the charge Memo.
5. The learned Odisha Administrative Tribunal vide order dated 02.09.2016 has passed the following order:-

“The departmental proceeding as well as the vigilance case has been initiated against the applicant who is at present working as CSI of Police, Bhanjanagar. He has filed this O.A. seeking a direction to quash the departmental proceeding under Annexure-2 series. It is submitted that in the event both the criminal case and the departmental proceeding are allowed to continue, the applicant is likely to be prejudiced in his defence. He relieved upon the decision of the Hon’ble Apex Court reported in the case of Kusheswar Dubey Vs. Bharat Cooking Coal Ltd. reported in SCC P. 323 Para-8 wherein it has been held that:

“8. In the instant case, the criminal action and the disciplinary proceedings are grounded upon the same set of facts. We are of the view that the disciplinary proceeding should have been stayed and the High Court was not right in interfering with the trial court’s order of injunction which had been affirmed in appeal.”

In view of the above decision, it is submitted that the departmental proceeding should be stayed till disposal of the vigilance case.

The learned standing counsel on the other hand submitted that there is no bar for continuance of both the departmental proceeding and criminal/vigilance case simultaneously as the standard of proof is different.

The case is admitted. Notice be issued, returnable within four weeks and rejoinder, if any, be filed within two weeks thereafter.”

6. At the time of call none appears for the petitioner. Mr. Mohanty, learned Additional Standing Counsel submitted that this matter being of the year 2016, in the meantime, the writ petition has been rendered infructuous.

7. In view of the aforesaid submissions, the writ petition is disposed of as infructuous.

8. Interim order dated 02.09.2016 passed by the learned Odisha Administrative Tribunal is, therefore, vacated.

(M.S. Raman)
Judge

Basudev