

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 1392 of 2017

Biraja Prasad Acharya

.....

Petitioner

Mr. Trilochan Nanda, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Mr. M. Balabantaray, Standing Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

21.02.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. Trilochan Nanda, learned counsel for the petitioner and Mr. M. Balabantaray, learned Standing Counsel for State.

3. The petitioner files this writ petition assailing the office order dated 11.08.2017 under Annexure-6 by which he has been disengaged from the post of Gram Rozgar Sevak with effect from 11.08.2017 on the allegation of misappropriation of Government money of the innocent beneficiaries under Rural Housing, misconduct and lack of absolute integrity.

4. Mr. Nanda, learned counsel for the petitioner contended that the petitioner was issued with a notice of show cause on the basis of the newspaper clipping pertaining to the allegation of misappropriation of Government money of the innocent beneficiaries under Rural Housing, misconduct and lack of absolute integrity, to which, he has given reply denying such allegation. But without considering the same, the order impugned under Annexure-6 has been passed. Therefore, he has approached this Court in the present writ petition.

5. Mr. Balabantaray, learned Standing Counsel contended that though the petitioner was engaged as Gram Rozgar Sevak pursuant to an agreement executed between the parties on 5th December, 2006, but

the period has not been extended and, thereby the action so taken by the authority is well justified with reference to the counter affidavit filed by the opposite parties.

6. Having heard learned counsel for the parties and after going through the record, admittedly the petitioner was engaged as Gram Rozgar Sevak by executing an agreement under Annexure-3 on 5th December, 2006. From the date of his engagement, he was continuing till the order of disengagement was passed in Annexure-6 dated 11.08.2017. The allegations made that he has misappropriated the Government money of the innocent beneficiaries under Rural Housing, misconduct and lack of absolute integrity, on the basis of a paper clipping of news item published in the newspaper "The Prameya" dated 06.07.2017. On the basis of the inquiry report of the Block Development Officer, it is alleged that the petitioner had retained ATM cards and bank pass books of some of the beneficiaries and misappropriated the government money. Consequence thereof, misconducted himself and having lack of integrity. Notice of show cause was issued on 21.07.2017, to which the petitioner replied vide Annexure-5 on 24.07.2017 denying such allegations. Merely because a news item has been published in the newspaper, that cannot and should not have been the basis for initiation of the proceeding against the petitioner without finding out the correctness of the allegation made against the petitioner by causing proper inquiry. While passing the order impugned, reliance has been placed to a letter dated 17.07.2017 of the Block Development Officer, Balangir, who had stated that he had conducted an inquiry by the order of the Project Director, DRDA Balangir dated 15.07.2021 about retention of the ATM card and pass books of the beneficiaries, where he found that the petitioner has illegally retained such ATM cards and pass books, for which the petitioner has been called for show cause and he submitted his reply.

7. But fact remains, while causing such inquiry on 17.07.2017 by the Block Development Officer, Bolangir, no opportunity of hearing was given to the petitioner. Merely because he has been called upon to give a reply pursuant to the notice of show cause, that itself cannot suffice, because serious allegations have been made against the petitioner with regard to misappropriation of Government money of the innocent beneficiaries under Rural Housing, misconduct and lack of absolute integrity. Thereby the opposite parties have not complied with the principle of natural justice.

8. In view of such position, this Court is of the considered view that the order dated 11.08.2017 vide Annexure-6, which has been passed relying on the inquiry report dated 17.07.2017 of the Block Development Officer, Bolangir, cannot sustain in the eye of law and same is liable of quashed and hereby quashed. The matter is remitted back to the Collector, Bolangir- opposite party no.2 to cause an inquiry afresh by providing due opportunity of hearing to the petitioner and take a decision thereon. The entire exercise shall be completed within a period of four months from the date of communication of the judgment.

9. With the above observation/direction the writ petition stands disposed of.

10. Issue urgent certified copy as per rules.

Arun

(DR. B.R. SARANGI, J.)