

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C(OA) No.2988 of 2013

Prasanna Kumar Sahoo

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

O R D E R

30.3.2022

Order No

4.

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. K.C.Kanungo, learned counsel for the Petitioner and Mr. M.K. Balabantray, learned Counsel for the State-Opposite Parties.

3. The Petitioner has filed the present Writ Petition for the following reliefs.

“(i) Yours Lordship may be graciously pleased to hold that Annexure-2 and 6 are not sustainable in the eye of law and hence be quashed for the ends of justice.

(ii) Be further pleased to quash Annexure-2 and 6 for the ends of justice.

(iii) Be further pleased to quash Para 4 of Annexure-4 and Para 2 of Annexure-5 for the ends of justice.

(iv) Be further pleased to issue any other / further order (s) or direction (s) as deemed fit and proper in the circumstances of the case.

(v) For such kind act, the Applicant shall as in duty bound ever pray”.

4. It is contended by Mr. Kanungo, learned counsel for the Petitioner that the Petitioner while continuing as a

Village Agriculture Worker, he was implicated in a Vigilance case i.e. Cuttack Vigilance P.S. Case No.53 dated 27.12.2008 under Section 13(2) read with Section 13(1)(c)(d) of P.C. Act, 1988 and Sections 468, 471, 409, 120-B of I.P.C.

5. It is also contended by Mr. Kanungo, learned counsel for the Petitioner that in the said vigilance proceeding, charge sheet was filed on 16.11.2011. But subsequently, the Departmental Proceeding was initiated against him with service of charges on 11.03.2013 vide Annexure-2 to the Writ Petition by the Director of Agriculture and Food Production, Odisha.

6. It is submitted by Mr. Kanungo, learned counsel for the Petitioner that though the Petitioner on receipt of the charges, submitted his written statement of defence on 14.04.2013 under Annexure-3, but subsequently the Petitioner when sought for certain documents basing on which the charges were framed against him in the aforesaid Departmental Proceeding, the same were never supplied to him.

7. It is further argued that instead of providing him with the documents as requested, vide Annexure-4, the Joint Director of Agriculture (Administration), without any authority casted some aspersion of the conduct on the Petitioner.

8. It is also argued that subsequently vide letter dated 14.05.2013 under Annexure-5, Deputy Director of Agriculture, Angul without any authority while declining to provide the documents as requested by the Petitioner,

threatened the Petitioner from making any direct correspondence with the disciplinary authority. Not only that vide order dated 20.09.2013 under Annexure-6, the Director of Agriculture & Food Production, Odisha while appointing the self-same Deputy Director of Agriculture, Angul as the Enquiring Officer for the purpose of enquiring into the charges, Joint Director of Agriculture Administration while forwarding the said order directed the Enquiry Officer to complete the enquiry and to submit the report within fourth five days from the date of receipt of the order.

9. Accordingly, it is contended by Mr. Kanungo, learned counsel for the Petitioner that instead of providing him to the documents not only Joint Director of Agriculture, (Administration) but also Deputy Director of Agriculture, Angul interfered with the matter without any authority and the self-same Deputy Director of Agriculture, Angul was appointed as Enquiry Officer to conduct the enquiry.

10. Mr. Kanungo, further submitted that since the person who issued Annexure-5 was appointed as Enquiry Officer, the Petitioner is apprehensive of fair conduct of the enquiry by the said Enquiring Officer and accordingly approached this Court in the aforesaid writ petition with the prayers indicated hereinabove.

11. It is brought to the notice of this Court that vide order dated 28.01.2014, the learned Tribunal while issuing notice of the matter also passed an interim order by restraining the disciplinary authority from taking any evidence without leave of the Court. In view of such order

passed by the learned Tribunal on 28.01.2014, the departmental proceeding has not proceeded further beyond the appointment of the Enquiring Officer vide order dated 20.09.2013.

12. Mr. Balabantaray, learned counsel appearing for the State-Opposite Parties basing on the counter argued that since the documents prayed for by the Petitioner have been provided to him in the Vigilance Proceeding, Joint Director of Agriculture, Administration rightly refused to provide such documents to the Petitioner.

13. Mr. Balabantaray further contended that only because Annexure-5 has been issued by the Deputy Director of Agriculture, Angul, no mala fide can be attributed for his being appointed as the Enquiry Officer. But it is fairly admitted by both the Parties that neither the Vigilance Proceeding has further proceeded after submission of the charge sheet on 16.11.2011 nor the Departmental Proceeding has further proceeded beyond appointment of the Enquiry Officer vide order dated 20.09.2013.

14. In countering the submission made by Mr. Balabantaray, learned counsel for the State, Mr. Kanungo learned counsel for the Petitioner contended that even though the Petitioner was provided with most of the documents in the vigilance proceeding, but as indicated in Annexure-III to the charge memo dated 11.03.2013

documents indicated at Sl. No.2 of Annexure-III, i.e. Cash Book, Measurement Book and Memorandum dated 3.2.2010 were never provided to the Petitioner and unless those documents are provided to him, he will be seriously prejudiced in contesting the proceeding initiated vide Memorandum dated 11.03.2013.

15. Having heard learned counsel for the Petitioner and in view of the admitted position that the Departmental Proceeding has not proceeded beyond the appointment of the Enquiry Officer vide order dated 20.09.2013, while declining to interfere with the prayer made in the Writ Petition, the Writ Petition is disposed of with the following directions:-

(i) The Opposite Party No.2 is directed to provide the copies of the documents indicated at Column No.2 of Annexure-III in the Memorandum dated 11.03.2013 to the Petitioner within a period of one month from today.

(ii) The Petitioner is directed to file a fresh written statement of defence on being provided with the document as directed above within a further period of one month.

(iii) The Opposite Party No.2 is also further directed to appoint another Enquiry Officer in place of Deputy Director of Agriculture, Angul by modifying his earlier order dated 20.09.2013 under Annexure-6.

(iv) Since the proceeding is of the year 2013, the Opposite Party No.2 is directed to take all possible steps to conclude the proceeding within a period of six months from the date of receipt of the fresh written statement of defence from the Petitioner. Petitioner is also directed to co-operate with regard to conduct of the enquiry and disposal of the proceeding.

16. With the above observation and direction, the Writ Petition stands disposed of. There shall be no order as to costs.

Subrat

(Biraja Prasanna Satapathy)
Judge

