

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C. (OA) No.1765 of 2017

Sri Ghanashyam Hessa

.... ***Petitioner***
Mr. R.K. Bisoi, Advocate

-versus-

State of Odisha & Another

.... ***Opposite Parties***
Mr. P.K. Mohanty, ASC

CORAM:
JUSTICE M.S. RAMAN
ORDER
30.08.2022

Order No.

- 03.**
1. This matter is taken up through virtual/physical mode.
 2. The Original Application No. 1765 of 2017 was filed before the State Administrative Tribunal, Bhubaneswar. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OA) No. 1765 of 2017.
 3. Mr. R. K. Bisoi, counsel for the Petitioner submitted that F.I.R. bearing No. 82(2), dated 23rd July, 2009 registered in Kalinga Nagar P.S. indicating offence under Sections 376/342/506/323 of I.P.C. gave rise to initiation of Departmental Proceeding vide D.O. No. 1367, dated 25th July, 2009 issued by the Superintendent of Police, Jajpur (Annexure-2).
 4. Mr. Bisoi, counsel drew the attention of this Court to memorandum of charge available at Annexure-3 showing that the I.G. of Police, Odisha, Cuttack directed to file show cause by 10th December, 2009 to be dealt appropriately in the event, the charges being held to be proved against the delinquent. The counsel for the Petitioner has demonstrated that the basis of charge in the criminal case is virtually identical with that of

the departmental proceeding. Mr. Biosi, counsel placed reliance on a Co-ordinate Bench decision of this Court vide order dated 10th August, 2022 in the case of *Bibhisan Nayak Vrs. State of Odisha & Others* in WPC (OA) No. 2484 of 2016. It is, therefore, submitted by Mr. Bisoi, counsel that as the criminal case is pending, the departmental proceeding is required to be stayed till finalization of criminal case.

5. Counsel for the Petitioner pressed Para 7 of the said order dated 10th August, 2022, which is quoted herein below:-

“7. Since the nature of proof in both the cases are totally different, in that case, the pendency of the Criminal Case cannot stand as a bar to conclude the Departmental Proceeding. This Court in W.P.(C) No. 35773 of 2021 disposed of on 22.11.2022 observed as follows:-

“Considering the submission that during pendency of the criminal trial, filing of defence by the petitioner in the disciplinary proceeding will jeopardize the prospect of the delinquent petitioner involving the criminal case, this Court finds support of the submission of learned counsel and also the support of decision of the Hon’ble apex Court reported in AIR 1999 SC 1416, decided taking support of the old decision of the Hon’ble apex Court reported in AIR 1965 SC 155. This Court accordingly disposes of the writ petition directing stay of the Disciplinary Proceeding vide C.P. H.Q Proceeding No. 02 of 2016 under Annexure-2 involving the petitioner till finalization of the Criminal Trial vide Bhubaneswar Vigilance P.S. Case Page 3 of 3 No.06 of 2016 pending in the court of Special Judge, Vigilance, Order No. 1 Page 2 of 2 Bhubaneswar. This Court also directs the trial involving Bhubaneswar Vigilance Case No. 06 of 2016 be expedited”

6. Mr. P.K. Mohanty, Additional Standing Counsel conceded to the aforesaid position.

7. In view of the above, this Court disposes of the writ petition directing stay of the Departmental Proceeding initiated under Annexure-3 till finalization of the Criminal Case initiated vide G.R. Case No. 525 of 2009 relating to FIR No. 82(2), dated 23rd July, 2009, pending before the learned Additional Sessions Judge, Jajpur. This Court also directs that the said Criminal Case be expedited and finalized.

Issue urgent certified copy as per rules.

(M.S. Raman)
Judge

Laxmikant

