

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No.546 of 2011

Dhaneswar Behera

....

Petitioner

None

-versus-

State of Orissa and others

....

Opposite Parties

Mr. S.N. Mohapatra, S.C, S.&M.E. Deptt.

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

14.02.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. None appears for the Petitioner when the matter is called. Heard learned Standing Counsel for School and Mass Education Department.
3. Upon careful scrutiny of the writ petition, it is found that under Annexure-2, a notice was issued to the Head Master, Kauchiapatna Primary School, Khordha, on a grievance petition filed by one Smt. Bilasini Behera, wife of Dhaneswar Behera of village-Siko in the district of Khordha to attend a hearing by Opposite Party No.1. After hearing such grievance petition, vide Memo No.2228(2), dated 25.04.2011, the District Inspector of School, Khordha passed an order wherein it has been reflected that 'in consideration of the Grievance Petition heard on 16.4.2011 by the Commissioner-cum-Secretary, Department of School & Mass Education, Govt. of Orissa, Bhubaneswar, Sri Dhaneswar Behera, Headmaster, Kauchiapatna Primary School under Begunia Block is

hereby ordered to pay @Rs.9000/- (Nine Thousand rupees only) per month to his spouse Smt. Bilasini Behera towards maintenance of the family members, w.e.f. the month of April, 2011 & onwards.’

4. On perusal of Annexure-3, this Court was unable to find out the reason and the source law for passing such an order and under which provision of law such an order was passed to give maintenance to Smt. Bilasini Behera. It does not also disclose whether any competent court of law has adjudicated the issue or the Commissioner-cum-Secretary, School and Mass Education Department has issued any such order pursuant to direction by any competent forum to pay maintenance amount. Therefore, it appears that the said direction of the District Inspector of Schools, Khordha is without the sanction of law, arbitrary and misuse of power vested with him and the same is beyond the jurisdiction, as such, the same is unsustainable in the eye of law.

5. In such view of the matter, the order of the District Inspector of Schools, Khordha under Annexure-3 is hereby quashed.

6. Writ Petition is accordingly allowed.

7. Issue urgent certified copy on proper application.

(A.K. Mohapatra)
Judge