

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.31528 OF 2022

Smita Dash ***Petitioner***
Mr. Bibekananda Bhuyan, Advocate
-versus-
Paradip Port Trust and others ***Opp. Parties***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
23.11.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 14th November, 2022 (Annexure-8) passed by learned District Judge, Jagatsinghpur in Special Jurisdiction Case No.14 of 2022, whereby an appeal under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short 'the Act') has been dismissed.
3. Mr. Bhuyan, learned counsel submits that the Petitioner was initially appointed as a Site Supervisor under Paradip Port Trust on 5th June, 2008 and after continuing for more than three and half years, her services were not extended. Hence, the contract came to an end. However, the Petitioner had filed W.P.(C) No.24470 of 2011 for regularization of her services, which was disposed of vide order dated 16th March, 2012 with the following direction:

“However, considering the facts and circumstances of the case and the fact that all the petitioners have already worked for two and half years and looking at the job scenario in the State of Orissa and

the Paradip Port Trust being a model employer and the fact that the disengagement of the rest of the Site Engineers and Site Supervisors would render them jobless when the posts, which are lying vacant, cannot be filled up immediately, we direct that all the petitioners shall be allowed to continue in their respective posts, as was before, till the said posts are filled up on regular basis. The entire exercise shall be completed within a period of fifteen days from the date of receipt of this order.

We make it very clear that we have not passed any order regarding regularization of services of the petitioners.

We further direct that if the posts are filled up on regular basis, the case of the petitioners shall be considered by the authorities taking into account their past service, relaxing their marks and by condoning their age limit....”

4. Assailing the same, the Paradip Port Trust moved the Hon'ble Supreme Court in Civil Appeal No.3989-4000 of 2012, which is pending. At this juncture, during resurgence of COVID-19, a notice for eviction was issued to the Petitioner on 3rd December, 2021. Subsequently, Misc. Case No.94 of 2021 was initiated under Section 5 of the Act for eviction of the Petitioner. Due to resurgence of COVID-19, the Petitioner could not produce any material in support of her right to occupy the said quarters. Without affording ample opportunity, the Estate Officer, Paradip disposed of the said misc. case vide order dated 4th March, 2022 directing eviction of the Petitioner within a period of fifteen days from the date of publication of the order. Assailing the same, the Petitioner preferred Special Jurisdiction Case No.14 of 2022 before learned District Judge, Jagatsinghpur under Section 9 of the Act. The said appeal was dismissed vide order dated 14th November,

2022 confirming the order dated 4th March, 2022 passed by the Estate Officer, Paradip. Hence, this writ petition has been filed.

5. It is his submission that in the year, 2013, a proceeding under Section 5 of the Act was initiated and it was subsequently dropped. Thus, a proceeding of similar nature is barred by *res judicata* and estoppel. Further, since the matter is pending before the Hon'ble Supreme Court, the Petitioner should be allowed to occupy the quarters in question. He, therefore, prays for setting aside the impugned order and to allow her to continue in Qr. No.PIR-5, Nuabazar, Paradip in the district of Jagatsinghpur.

6. Upon hearing learned counsel for the Petitioner and on perusal of the record, it appears that although the Petitioner was given opportunity before the Estate Officer, Paradip to produce documents with regard to entitlement of occupy the quarters, she could not produce any material to that effect. On being asked, learned counsel submits that the Petitioner is no more in service, since her contractual employment has already come to an end since 2011. He, however, submits that the matter regarding her regularization is still pending before the Hon'ble Supreme Court and her possession of the quarters in question should be protected in the meantime. Such a submission is not sustainable in the eyes of law, as the Petitioner being not an employee is not entitled to occupy a quarter meant for the employees of Paradip Port Trust. It further appears that on earlier occasion, a proceeding under the Act was initiated for eviction of the Petitioner, but it is submitted by learned counsel for the Petitioner that the said proceeding has been dropped. However, no material is placed before this Court to come to a conclusion with regard to initiation and/or disposal of the said

proceeding. Thus, this Court is not in a position to entertain the contention of learned counsel for the Petitioner with regard to *res judicata* as well as estoppel.

7. Fact remains that the Petitioner is not in service and she is occupying the quarter of Paradip Port Trust meant for its employees. Hence, the Petitioner has no right to occupy the said quarter as rightly observed by the Estate Officer as well as learned District Judge, Jagatsinghpur.

8. In view of the above, I find no infirmity in the impugned order under Annexure-8. Accordingly, this writ petition being devoid of any merit stands dismissed.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks

