

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C).No.39892 of 2021

Nityananda Behera

....

Petitioner

Mr.P.Mohanty, Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr.R.P.Mohapatra, AGA

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
27.01.2022**

Order No.

2

1. This matter is taken up through Video Conferencing Mode.
2. Heard learned counsel appearing for the parties.
3. This writ petition involves the following prayer:

“It is, therefore prayed that this Hon’ble Court may graciously be pleased to issue a Rule Nisi in the nature of Writ of Mandamus and/or direction and or/orders calling upon the opposite parties to show cause;

As to why the impugned order dated 07.12.2017 passed by opp. party No.2 under Annexure-10 shall not be quashed by declaring it to be illegal, arbitrary and irrational;

A N D

Further be pleased to direct the Opp. Parties to consider the case of the petitioner for rehabilitation by allotting him a shop room and/or a place for doing business for sustenance of livelihood, in the newly constructed Rahama Market Complex, by taking into view the hardship faced by the petitioner, whose shop room has been demolished and evicted for the construction of the said market complex;

And if the Opposite Parties fail to show cause and/or show insufficient and/or false cause make the said rule absolute;

And/or pass such other further order/orders as this Hon’ble Court deems just, and proper and allow this writ application with cost;

And for this act of kindness, the petitioner shall as in duty bound ever pray.”

4. Writ petition appears to have involve a challenge to Annexure-10.
10. Reading the input in Annexure-10, this Court observes there is

disposal of the proceeding involving the petitioner on the direction of this Court in disposal of W.P.(C).No.16075 of 2017 merely on the premises that the petitioner failed to establish that he had shop room over the disputed land. Presently, the petitioner makes an attempt for consideration of his case by the Regulated Market Committee, Rahama. Taking this Court to the series of documents filed in Annexure-1 series as well as Annexure-7, Mr. Mohanty, learned counsel for the petitioner not only claims that there is material to support the claim of the petitioner involved herein but the petitioner is also attempting to establish his such claim that at some point of time there was assurance by the competent authority to relocate the petitioner in the newly constructed Market Complex. It is keeping in this view, this Court finds the claim of the petitioner should not be rejected merely on the premises that he failed to produce the documents supporting his claim but, however, needs one more opportunity.

5. Considering the issue involving livelihood of the petitioner on the premises of technical disposal vide Annexure-10, this Court interfering in Annexure-10, sets aside the same and remits the matter once again back to the Collector, Jagatsinghpur-opposite party no.2 to reconsider the Misc. Case No.20 of 2017 in terms of direction herein and also in W.P.(C).No.16075 of 2017 subject to petitioner filing material to prove his case along with copy of this order at least within a period of ten days hence. Fresh disposal will also involve the personal hearing to the petitioner. Decision as appropriate on re-disposal of the proceeding be undertaken within a period of two months from the date of communication of an authenticated copy of this order by the petitioner.

6. In the event there is no full allotment of the shop room involved, one room shall remain subject to result of the re-allotment order.

7. With this observation and direction, the writ petition stands disposed of.

8. As restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout copy of

the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Court's Office order circulated vide Memo Nos.514 & 515 dated 7th January, 2022.

(Biswanath Rath)
Judge

Ayas

