IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) NO.849 of 2018

Thandu Ram Naik ..... ***Petitioner***

Mr. K.C. Sahu, Adv.

-versus-

State of Odisha & Others ..... ***Opposite Parties***

Mr. S.K. Samal,
Addl. Govt. Advocate

CORAM:

THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

16.07.2024

Order No.3

1. This matter is taken up through hybrid mode.

2. Heard learned counsel for the parties.

3. Petitioner has filed the present Writ Petition inter alia challenging the order dt.23.04.2018 so issued by the Government-Opp. Party No.1 under Annexure-7, directing for recovery of a sum of Rs.15,000/- per month from the salary of the Petitioner towards cost of OMR as per Audit Report.

4. Learned counsel for the Petitioner contended that with regard to recovery of the amount in question, a proceeding was initiated against the Petitioner vide Memorandum dt.22.02.2018 under Annexure-5. Petitioner after receipt of the Memorandum also submitted his Written Statement of defence on 03.04.2018 under Annexure-6. But prior to disposing the proceeding in accordance with law , the impugned

direction when was issued to recover a sum of Rs.15,000/- per month, the present matter was filed challenging the same.

4.1. It is contended that the Tribunal while issuing notice of the matter vide order dt.02.05.2018 passed an Interim Order staying the operation of the impugned direction so issued under Annexure-7.

4.2. Learned counsel for the Petitioner contended that since on the self-same issue, a proceeding has been initiated under Annexure-5, no such direction could have been issued to recover any amount prior to disposal of the proceeding in accordance with law. It is accordingly contended that the impugned direction so issued under Annexure-7 is not sustainable in the eye of law.

5. Learned Addl. Govt. Advocate on the other hand made his submission basing on the stand taken in the counter affidavit so filed Opp. Party Nos.2,3 & 4.

Basing on the stand taken in the counter affidavit, it is contended that since as per the Audit Reports, shortage was found to the tune of Rs.42,66,723/- and a sum of Rs.7,20,000/- has already been recovered from the Petitioner, the impugned letter was issued under Annexure-7 to recover the balance amount @ Rs.15,000/- per month. It is accordingly contended that since Petitioner has paid certain amount out of the recoverable amount, the prayer as made in the Writ Petition is not entertainable.

6. Having heard learned counsel for the parties and considering the submission made, this Court finds that with regard to the recovery of the amount in question, a proceeding has been initiated against the Petitioner vide Memorandum dt.22.02.2018 under Annexure-5. Petitioner has already filed his written statement of defence under Annexure-6. In view of such position, it is the considered view of this Court that prior to disposal of the proceeding in accordance with law basing on the Audit recovery, no direction could have been issued to recover any amount from the Petitioner vide the impugned order dt.23.04.2018 under Annexure-7.

6.1. Therefore, this Court is inclined to quash the direction so issued by the Government-Opp. Party No.1 in order dt.23.04.2018 under Annexure-7. While quashing the same and taking into account the fact that the proceeding has not yet been disposed of as contended, this Court directs Opp. Party No.1 to dispose of the proceeding in accordance with law within a period of six (6) months from the date of receipt of this order, if there is no other legal impediment. Petitioner is also directed to cooperate at every stage of the proceeding for its disposal within the time fixed by this Court.

Learned Addl. Govt. Advocate is directed to provide a copy of this order before Opp. Party No.1 for compliance. The amount already recovered from the Petitioner shall be subject to final outcome of the proceeding in question.

Free copy of this order be provided to the learned Addl. Govt. Advocate for compliance.

(BIRAJA PRASANNA SATAPATHY)
Judge

sangita

Signature Not Verified
Digitally Signed
Signed by: SANGITA PATRA
Reason: authentication of order
Location: high court of orissa, cuttack
Date: 19-Jul-2024 19:07:10