IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.42127 of 2023

Puspanjali Paikaray .... ***Petitioner***
Mr. B.Mohapatra,Advocate

-versus-

State of Odisha & another .... ***Opposite Parties***
Mr. A.P.Das,
A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA
ORDER
02.01.2024

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the Petitioner as well as the learned Additional Standing Counsel for the State Opposite Parties. Perused the Writ Petition as well as the documents annexed thereto.

3. The Petitioner has filed the present writ application with the following prayer:

> "It is therefore, most humbly prayed that this Hon'ble Court may graciously be pleased issue Rule Nisi calling upon the Opp. Parties to show cause as to why the Order dated 04.09.2023 of OP. No.1 shall not be set aside and adverse remarks entered for the year 2021 to 2022 shall not be modified;
>
> And/or pass such any other order(s)/direction/directions having regard to the fact and circumstance of this case."

4. It is submitted by learned counsel for the petitioner that being aggrieved by the adverse remark in the PAR of the petitioner. The petitioner had earlier approached this Court by filling W.P.(C)

No.23743 of 2023. This Court vide order dated 02.08.2023 disposed of the aforesaid writ application by holding that the order dated 06.07.2023 was not a speaking order and accordingly order dated 06.07.2023 was set aside and the matter was remanded back to the opposite Party No.1 to consider the representation of the petitioner dated 12.07.2023 within a period of six weeks. After disposal of the earlier writ application the petitioner approach the Opposite Party No.1. He further submitted that the Opposite Party No.1 vide order dated 04.09.2023 has again rejected the representation of the petitioner and the adverse remark in the PAR has been written by the authority after reveal the case of the petitioner. Being aggrieved by such order dated 04.09.2023 under Annexure-3 the petitioner has approached this Court by filing the present writ application.

5. In course of his argument learned counsel for the petitioner submitted that the impugned order under Annexure-3, dated 04.09.2023, reflects the grounds on which the authorities have rejected the representation of the petitioner. He further contended that the cases of similarly situated person having adverse remarks in the PAR have been considered and the adverse remarks made in the PAR of such similarly situated persons have been removed in the meantime. However, the authorities have not considered the case of the petitioner favorably, despite the order passed by this Court.

6. Learned Additional Standing Counsel on other hand contended that pursuant to the order passed by this Court in the writ application, the case of the petitioner was considered by the Opposite Party No.1. He further contended that vide order dated 04.09.2023, under Annexure-3 to the writ application, the representation of the petitioner has been disposed of by passing a speaking and reasoned order. In such view of the matter, learned Additional Standing counsel submitted that the order passed by this Court has been fully

complied with. He also contended that in the event the petitioner is aggrieved by the order dated 04.09.2023, then appeal has been provided against such order. Therefore, it is upon to the petitioner to approach the appellate authority by challenging order dated 04.09.2023 under Annexure-3 to the writ application.

7. Considering such submissions made by learned counsels appearing for respective parties, on a careful examination of the background facts and keeping in view the submission that the order under Annexure-3 is an appealable order. This Court grants liberty to the petitioner to file an appeal, within two weeks from today, taking therein all the grounds along with supporting documents. In the event such appeal is filed, the appellate authority shall do well to consider the same and dispose of the appeal by passing a speaking and reasoned order. It is further directed that, in the event the appellate authority is of the view that an opportunity of hearing is required to be given to the petitioner, while considering his representation, then such opportunity shall also be provided to the petitioner by issuing a notice to the petitioner to appear before the appellate authority. It is further directed that the appellate authority shall make endeavor to dispose of the appeal as expeditiously as possible, preferably within a period of three months from the date of the presentation of the appeal along with certified copy of this order. The final decision so taken by the appellate authority be communicated to the petitioner within a period of two weeks from the taking of such final decision.

8. With the aforesaid observation, the writ application stands disposed of.

9. Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

Rubi

HIGH COURT
सत्यमेव जयते
ORISSA

Signature Not Verified
Digitally Signed
Signed by: RUBI BEHERA
Reason: Authentication
Location: High Court of Orissa
Date: 05-Jan-2024 17:40:16