IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.4050 of 2025

(Application under Articles 226 and 227 of the Constitution of India)

Geeta Rath ... Petitioner

-versus-

State of Odisha & others ... Opposite Parties

Advocates appeared in the case through hybrid mode:

For Petitioner : Mr.Nihal Rath, Advocate.

-versus-

For Opposite Parties : Mr. S.R.Pattnaik, A.G.A.

CORAM:
JUSTICE SASHIKANTA MISHRA

JUDGMENT
25.4.2025.

Sashikanta Mishra,J. The Petitioner has approached this Court claiming the following prayer:

"It is therefore most humbly prayed that this Hon'ble Court may graciously be pleased to admit this writ application, issue Rule NISI in the nature of writ of mandamus directing the opp. parties to issue Green Card in favour of the petitioner on the basis of surgery certificate dtd.21.10.1998 at Annexdure-2 within a stipulated period."

2. The facts of the case are that the Petitioner underwent an operation on 21.10.1998 at Shanti Hospital, Cuttack for ovarian cyst by endoscopy and during the said process, she, with her consent, underwent tubectomy operation in order to support the moral cause of the Government for universally recognized move for rapid reduction in the high growth rate of population. The Government of Odisha in Health and Family Welfare Department issued resolution dtd.19.10.1983 for issue of Green Card to individual acceptors of terminal methods for availing benefits under various schemes of the Government.

The petitioner claims to have fulfilled the required criteria laid down in such scheme. Her husband submitted a representation to the Director, Family Welfare for issue of Green Card to his wife (Petitioner) on 13.11.2023. The CDM and PHO, Cuttack vide letter dtd.17.11.2023 sought for permission of the Director for preparation and issue of new Green Card after verification of available documents. The Director, Family Welfare instructed the CDMO and PHO, Cuttack to issue Green Card after inquiring into the following points as per resolution of the Government dtd.19.10.1983 and 18.11.1998;

> (i) Whether Shanti Hospital had got accreditation for conducting sterilization operation (Tubectomy/Vasectomy) during the time of operation i.e. 1998.
> (ii) Whether the operating Surgeon was the empaneled Surgeon at that point of time.
> (iii) Whether the name and date of operation was informed to the district on that financial year 1998-99.

(iv) Verification report towards eligibility for issue of Green Card must be submitted by the para medical staff.

3. By order dated 1.1.2024, the CDMO and PHO, Cuttack asked the Proprietor, Shanti Hospital, Cuttack to submit the documents. The Management of Shanti Hospital intimated that the Hospital was in a very low lying area of Cuttack and during the devastating 1999 super-cyclone, all the records had been damaged. As such, the CDMO and PHO, Cuttack expressed his inability to issue Green Card vide his letter dtd.6.1.2025. It is stated that because of such refusal, the right of the petitioner's daughter for being enrolled as a Post Graduate student in reputed Government College against 5% reservation for Green Card category as per the relevant guideline has been taken away. On such facts, the instant writ petition has been filed with the prayer as quoted above.

4. Counter affidavit has been filed by the C.D.M.O and PHO (Opp. Party No.3) stating therein that by

letter dated 12.3.2025, the authorities of Shanti Memorial Hospital certified the authenticity of the discharge certificate of the Petitioner to be genuine and authentic. Further, from the discharge certificate, it was found that she had undergone operation for Adhesiolysis of both chocolate cysts of ovaries in the year 1998 and during such operation, other procedures and bilateral tubectomy was done. Since the Petitioner had not voluntarily undergone the terminal method of tubectomy as per resolution of the Government, she is not entitled to any relief thereunder. That apart, despite being operated way back in the year 1998, she applied for the Green Card after more than 25 years.

5 Heard Mr. Nihal Rath, learned counsel for the Petitioner, Mr. S.R. Pattanaik, learned Addl. Government Advocate for the State.

6. Mr. Rath would argue that being no dispute that the Petitioner had undergone tubectomy in 1998, is entitled to be issued with Green Card as per the relevant Government resolution. The concerned

hospital could not produce the documents because the same were lost during the super-cyclone but nevertheless certified the discharge certificate as being authentic and genuine. Under such circumstances, refusal of the authorities to issue Green Card to the Petitioner is unjustified.

7. Mr. S.R. Pattanaik, learned Addl. Government Advocate, would argue that the Petitioner has come up with a stale claim inasmuch as she allegedly underwent tubectomy in the year 1998, which was never voluntary, but approached the authorities only in the year 2023. Her claim therefore, does not merit any consideration.

8. It is the petitioner's own case that she underwent surgery for certain complications on 21.10.1998 at Shanti Hospital, Cuttack, during which she also underwent tubectomy. There is no whisper in the Writ Petition as to why she remained silent for all these years without raising claim for issue of Green Card as per the provisions of the relevant Government resolution. She appears to have approached the

authorities for the first time in the year 2023, which being turned down, she approached this Court in the year 2025. More than 27 years have been elapsed in the meantime. As already stated, the Petitioner has not submitted any explanation whatsoever for such belated approach before the authority. It is trite law that stale claims are not to be entertained by the authorities. It is also trite law that stale claims cannot be entertained by this Court exercising writ jurisdiction under Articles 226 and 227 of the Constitution of India.

9. For the foregoing reasons therefore, this Court finds no merit in the Writ Petition, which is therefore dismissed.

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Sashikanta Mishra,
Judge

Ashok Kumar Behera

Signature Not Verified
Digitally Signed
Signed by: ASHOK KUMAR BEHERA
Designation: A.D.R.-cum-Addl. Principal Secretary
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 29-Apr-2025 11:57:33