IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) Nos.13339 of 2018 & WP(C) Nos.13913,14501 & 20604 of 2016 & WP(C) Nos.3649 & 10304 of 2018, WP(C) No.4432 of 2019 & WP(C) No.17392 of 2022 & WP(C) Nos. 4093, 7539 & 7920 of 2024

Prasanna Kumar Dash	**(WPC No.13339/2018)**
Khirasindhu Sagaria	**(WPC No. 13913/2016)**
Sanjib Singh Barik	**(WPC No.14501/2016)**
Lily Acharya	**(WPC No. 20604/2016)**
Raitarani Jena	**(WPC No. 3649/2018)**
Premlal Bag	**(WPC No.10304/2018)**
Khageswar Pande	**(WPC No.4432/2019)**
Adikanda Sahu	**(WPC No.17392/2022)**
Barun Naik	**(WPC No.4093/2024)**
Jagadish Sahu	**(WPC No.7539/2024)**
Balaram Behera	**(WPC No.7920/2024)**

Mr. K.P. Mishra, Sr. Adv.
with Mr. S.K. Nath, Adv. in all cases
except WP(C) No.3649 of 2018
Mr. N. Panda in WP(C) No.3649 of 2018

CORAM:
JUSTICE DIXIT KRISHNA SHRIPAD

ORDER
15.12.2025

Order No.
04.

The subject matter of all these petitions is substantially similar to the ones treated by this Court in WP(C) No.16773 of 2016, connected with WP(C) No.16774 of 2016, between ***Jugal Charan Nayak v. State of Odisha & others*** heard & disposed off by this Court vide judgment dated 13.08.2025. At paragraphs 7.1 to 7.6, this Court has furnished the reasons as to why same relief has been grated to the litigants in the said petitions. The same reads as under:

"7.1. Both the Petitioners are in the third round of legal battles, having partly succeeded in two of them, is not in dispute. They apparently are poor persons, who were admittedly engaged by the jurisdictional OPs during the periods, as already mentioned above. May be that the Scheme/Project has come to an end and, therefore, the Petitioners cannot be continued in the very same scheme, as rightly argued by the learned-AGA. However, several such new Schemes having come up, other similarly placed persons have been reengaged, which averment is not denied by OPs. If that be so, there is no justification for the State to give a step-motherly treatment to the claim of Petitioners. Thus, the first legal lacuna in the impugned orders becomes apparent.

7.2. It is not the case of OPs that the Petitioners allegedly remaining absent or committing any other misconduct, were made to undergo any disciplinary inquiry, nor was any notice in that regard ever given to them, either. A Model Employer under our constitutional scheme cannot act like a Mughal of bygone era. The procedure, be it of engagement or disengagement, has to be fair and reasonable, to say the least. John Rawls equates fairness to justice. Therefore, the vehement contention of learned AGA that the Petitioners, having committed some default, were not favourably considered for absorption in the new Schemes, has to fall to the ground. The officials cannot assume things without any basis.

7.3. There is force in the submission of learned counsel for the Petitioners that in the earlier round of legal battle the OPs have suffered a finding vide order dated 17.02.2016 entered in W.P.(C) No.8341 of 2015, wherein the relevant paragraphs read as under:

> *"Mr. B.S. Tripathy learned counsel for the petitioner states that this question has already been considered by this Court in Rashmirekha Patra and five others v. State of Orissa and other and batch of matter 2013 (I) OLR 606 therefore there is nothing remains to be adjudicated by this Court once again. It is stated that the*

Commissioner while passing the order impugned has not taken note of the law laid down by this Court in the aforementioned judgment. Instead of taking into consideration the judgment of this Court the Commissioner has passed the order impugned without any application of mind. Therefore the order so passed should be quashed. Mr. A.K. Pandey learned Addl. Standing Counsel for School and Mass Education Department states that though the Commissioner has passed reasoned order it appears that the judgment of this Court in Rashmirekha Patra (supra) has not taken note of while considering the case of the petitioner."

*The Apex Court in **Y.B. Patil v. Y.L. Patil**, AIR 1977 SC 392, has held that the findings recorded in the successive stages of legal battles operate as res judicata and therefore, the OPs are not justified in taking up contentions that run counter to the said findings.*

7.4. The vehement submission of learned AGA that engagements of the kind are coterminous with the projects in question and, therefore, there cannot be elongation of engagement after the accomplishment of the project, would have been normally accepted. However, this is not such a normal case, inasmuch as many other schemes have come up and similarly circumstanced persons are reengaged under them, as has already been mentioned above. If that be so, there is absolutely no justification for denying similar treatment to the Petitioners on the principle of Parity.

7.5. The last contention of learned AGA that the Petitioners had gained earlier engagement and they had not given agreements, as required under the extant rules then existing, cannot be acceded to. Had they not given such agreements, nothing prevented the jurisdictional officials to instruct them to execute one, and had it been done, Petitioners would have given any number of such agreements, they being badly in need of some employment for eking out their livelihood. That apart, the case of Petitioners

was not resisted in the earlier round of litigation on this ground and therefore, the same appears to have been taken up as an afterthought for resisting the petitions, with 'come what may' attitude of the bureaucracy. Thus, the impugned orders suffer from multiple errors apparent on their face.

7.6. It hardly needs to be stated that in the progressively developing State like Odisha many new ventures are being undertaken involving persons like the petitioners, for the purpose of educational campaigns to benefit the masses. Several new Projects have come up too, which aspect can be taken judicial notice of. The OPs should conduct themselves as a Model Employer and wherever possible, provide employment/ engagement contractual, temporary or otherwise, so that 'have nots' too will be able to hold their body & soul together. Of course, this is subject to certain limitations inherent in the system, hardly needs to be stressed. After all, compassion is not alien to our Constitution."

2. Learned counsel for the petitioner points out that the operative portion of the said judgment reads as under:

> *"In the above circumstances, both these writ petitions succeed and a Writ of Certiorari issues quashing the impugned orders. A Writ of Mandamus issues to the OPs to absorb petitioners in any new Scheme/Project within eight (8) weeks without driving them to one more round of legal battle"*

He further submits that like cases should be treated alike and therefore, whatever relief that has been accorded to the litigants in the cognate petitions needs to be extended to his clients on the principle of parity. There is force in this submission. Though, learned AGA Mr. Jee tried to differentiate the facts of the petitions at hand from the cognate petitions, no difference is demonstrated as such. Whatever other differences are not

relevant to the adjudication of the cases, such differences always being there in every case.

In the above circumstances, these petitions succeed in part; a Writ of Certiorari issues quashing the impugned orders dated 16.01.2018 in WP(C) No.13339 of 2018, dated 02.08.2016 in WP(C) No.7920 of 2024, dated 01.03.2017 in WP(C) No.7539 of 2024, dated 02.08.2016 in WP(C) No.4093 of 2024, dated 02.08.2016 in WP(C) No.17392 of 2022, dated 27.07.2016 in WP(C) No.4432 of 2019, dated 20.02.2018 in WP(C) No.10304 of 2018, dated 03.11.2016 in WP(C) No.20604 of 2016, dated 25.07.2016 in WP(C) No.14501 of 2016 & dated 25.07.2016 in WP(C) No.13913 of 2016. A writ of Mandamus issues to the OPs to absorb the petitioners in any new scheme or project within eight (8) weeks without driving them to one more round of legal battle, provided that such schemes or projects are in obtainment or promulgated in due course.

(***Dixit Krishna Shripad)***
Judge

Prasant

Signature Not Verified
Digitally Signed
Signed by: PRASANT KUMAR SAHOO
Designation: Personal Assistant
Reason: Authentication
Location: Orissa High Court
Date: 17-Dec-2025 18:54:25