IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.24574 of 2024

CNR No. ODHC010711652024

An application under Articles 226 & 227 of the Constitution of India

Dr. Sujata Dash .... Petitioner

versus

1. **State of Odisha, through Commissioner-cum-Secretary, Higher Education Department**

2. **Maharaja Sriram Chandra Bhanja Deo University through its Registrar .... Opposite Parties**

Advocates appeared in the case :

For Petitioner : Mr. Ishwar Mohanty, Advocate

For Opp. Parties : Mr. Tej Kumar, Additional Standing Counsel (for O.P. No.1)

: M/s. Sanjeev Udgata, S. Udgata, A. Mishra, S. Udgata, (for O.P. No.2)

CORAM:
THE HON'BLE MR. JUSTICE MRUGANKA SEKHAR SAHOO

J U D G M E N T

Date of hearing:12.10.2026 : Date of Judgment:30.10.2026

MRUGANKA SEKHAR SAHOO, J.

1. Heard learned counsel for the petitioner, the learned Additional Standing Counsel for the Opposite Party No.1 and learned counsel for the Opposite Party No.2.

2. The Writ Petition has been filed with the following prayer:

> *"It is, therefore, humbly prayed that the Hon'ble Court, may graciously be pleased to admit this petition; and pass a writ of certiorari or any other appropriate writs quashing the notification no. 877 dated 14.02.2023 (Annexure 1) and office order dated 22.03.2023 (Annexure 8) as the same are illegal and arbitrary and against the judgment of this Hon'ble Court in WA nos. 186 and 187 of 2018 Priya Ranjan Dash and Ors. V. State of Odisha and Ors.*
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> *And pass a writ of mandamus or any other appropriate writ or any direction to the Opposite Party no.2 to re-designate the Petitioner as Associate Professor from the date of her appointment and grant arrear and consequential financial benefits.*
>
> *And, further be pleased to pass any other Order/Orders as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

3. The challenge to the order at Annexure-1 is to the extent that the effective date of re-designation of petitioner as Associate Professor notified by the notification dated 14.02.2023 issued by the University (Opp. Party No.2) should be 14.08.2014 instead of 21.08.2019.

4. It is contended in the Writ Petition that the authorities while issuing Annexure-1 did not follow the judgment dated 17.11.2022 of this Court in W.A. Nos.186 & 187 of 2018;

Priaya Ranjan Dash and others vrs. State of Orissa and others rendered by the Division Bench.

5. It is submitted by Mr. Udgata, learned counsel appearing for the Opposite Party No.2-University that the Petitioner has never approached the authority raising a grievance against the notification dated 14.02.2023 which is in fact in favour of the Petitioner as far as redesignation of the Petitioner as Associate Professor when she was working as Reader. It is submitted regarding the effective date of redesignation to be 14.08.2014, earlier to 21.08.2019, the Petitioner has never approached the authority.

6. It is submitted by the learned counsel for the Petitioner that though the Petitioner has not approached the authority, but she challenges the order dated 14.02.2023. It is submitted that prior to passing of the order dated 14.02.2023 the Division Bench of this Court had passed order dated 17.11.2022 in W.A. No.187 of 2018. The order was challenged by State by filing SLP and SLP was dismissed by the Hon'ble Supreme Court on 17.05.2024. The Application seeking review of the order dated 17.05.2024 was dismissed on 18.02.2026.

7. It is submitted by the learned counsel Mr. Udgata for the University that judgments in W.A. are with respect to Utkal University, the issue as to whether the authority/Opposite Party No.2 should have followed and applied the judgments delivered by this Court with regard to Utkal University is academic, inasmuch as, the Petitioner has never approached

the authority after order dated 17.05.2024 dismissing SLP or after order dated 18.02.2026 dismissing Review.

8. In response it is submitted by the learned counsel for the Petitioner that the notification dated 14.02.2023 regarding the date of redesignation is in violation of the order of the High Court dated 17.11.2022 in W.A. Nos.186 & 187 of 2018.

The learned counsel was requested to point out which order of the authority violates which part of the order passed by the Division Bench of the High Court dated 17.11.2022 in writ appeal;

in response learned counsel refers to Paragraphs 5,7,14 & 15 of the judgment, which are reproduced herein:

> *"5. Immediately relevant for the present case is Rule 7 (1)(iii), which applies to the persons who were already in the posts of Readers and had completed five years of service after 1st January, 2006. In other words, the above Rule 7 (1)(iii) was not meant to apply to direct recruited Readers, who were going to be recruited after 2010. Even Rule 2 of the 2010 Rules, states that "these rules shall apply to the University Teachers (UGC Scale of Pay) in whole time employment of the Utkal University, Berhampur University, Sambalpur University, Shree Jagannath Sanskrit Vishvavidyalaya, North Orissa University, Fakir Mohan University and Ravenshaw University."*
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> *7. However, when it came to making a resolution on the basis of the above Rules, the Department of Higher Education devised a norm as regards Readers which was inconsistent with the above Rule 7 (1)(iii). In terms of the Resolution dated 4th April 2016, it was stipulated that while Readers with less than five years of service would be re-designated as Assistant Professor Stage-III with the pay scale of Rs.15,600-39,100 + AGP Rs.8,000/-, Readers with five years of service were to be re-*

designated as Associate Professor and given the pay scale of Rs.37,400-67,000/- + AGP Rs.9,000/-.

14. Having heard the submissions of Mr. Pitambar Acharya, learned Senior Counsel and Mr. Sudarshan Nanda, learned counsel appearing for the Appellants both in W.A. Nos.186 and 187 of 2018; Mr. Dayananda Mohapatra, learned Counsel for the Utkal University and Mr. Manoj Kumar Khuntia, learned Additional Government Advocate for the State, the Court is of the view that the resolution dated 4th April 2016 of the State Government was under a misconstruction of the 2010 Rules, which have been extracted hereinbefore. Clearly, the stipulation that Readers should have completed five years of service was not meant to apply to Readers directly recruited subsequent to the said Regulations but to existing Readers. It was this mistake that crept into the resolution dated 4th April 2016, which is resulted in the State adopting a stand contrary to the 2010 Regulations. As pointed out by the learned counsel for the Appellants in relation to other Universities viz., Shree Jagannath Sanskrit Vishvavidyalaya and the Fakir Mohan University, the advertisement issued after the UGC Regulations had clearly mentioned that it is the UGC Regulations that would apply as far as the scales of pay for the various posts of teachers is concerned.

15. For all of the aforementioned reasons, the Court sets aside the impugned judgment dated 22nd March 2018, passed by the learned Single Judge and while allowing the prayers of these two Appellants made in their respective writ petitions i.e., W.P.(C) Nos.1260 and 1261 of 2018, directs the Utkal University to fix their respective scales in Pay Band-4 (Rs.37,400-67,000/- + AGP Rs.9,000/-) in terms of Appendix-I, Appendix-III, Table-II (c) of the UGC Regulations, 2010 with retrospective effect from their respective dates of appointment with all arrears and consequential benefits."

9. In response to the submissions made by the learned counsel for the petitioner, Mr. Udgata, learned counsel appearing for the OP No.2 University relies on the decision of

the Hon'ble Supreme Court in ***Saraswati Industrial Syndicate Ltd. and others vrs. Union of India (UOI)***[1] to submit that for issuance of a writ of certiorari there has to be an impugned *quasi judicial* proceeding before this Court and for issuance of a writ of mandamus there has to be a demand by the Petitioner as well as a decision by the authority. Relied upon Paragraphs-28 & 29 are reproduced herein:

> *"28. As the appeals fail on merits we need not discuss the technical difficulty which an application for a writ of certiorari would encounter when no quasi-judicial proceedings was before the High Court.*
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> *The powers of the high Court under Article 226 are not strictly confined to the limits to which proceedings for prerogative writs are subject in English practice. Nevertheless the well recognised rule that no writ or order in the nature of a Mandamus would issue when there is no failure to perform a mandatory duty applies in this country as well. Evert in cases of alleged breaches of mandatory duties the salutary general rule which is subject to certain exceptions applied by us as it is in England when writ of Mandamus is asked for could be stated as we find it set out in Halsbury's Taws of England (3rd edition vol. 13 p. 106)5:*
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> > *As a general rule the order will not be granted unless the party complained of has known what it was he was required to do so that he had the means of considering whether or not he should comply and it must be shown by evidence that there was a distinct demand of that which the party seeking the mandamus desires to enforce and that that demand was met by a refusal.*
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> *29. In the cases before us there was no such, demand refusal. Thus no ground whatsoever is shown here for*

[1] ***AIR 1975 SC 460: (1974) 2 SCC 6309***

the issue of any writ order or direction under Article 226 of the Constitution."

10. Mr. Tej Kumar, learned Additional Standing Counsel in response also reiterates the submissions of Mr. Udgata that the Petitioner has never approached the authority that have passed the order dated 14.02.2023, for re-determination of the effective date of redesignation as Associate Professor to be 14.08.202014, i.e., the date of appointment of the Petitioner instead of 21.08.2019.

11. It is submitted by the learned counsel for the University that the University relies on the State Government Circulars and in particular in the case at hand the authorities had relied on the Letter No. HE-UE-POLICY-0010-2021-32865/HE dated 13.08.2021, therefore the State Government have a say.

12. In considered view of this Court the State Government is not the authority directly to deal with the redesignation of Associate Professor. It is nobody's case that the University is not the authority rather the University being the authority has redesignated the Petitioner as Associate Professor after she was appointed as Reader on 14.08.2014. The State Government Circular dated 13.08.2021 (copy of which annexed as part of Annexure-A/1 Series, Page-13 of the counter affidavit filed by OP No.2) refers to the Department of Higher Education Resolution No.7889 dated 04.04.2016 published in Odisha Gazette on 05.04.2016. The Higher Education Department Resolution dated 04.04.2016 was

subject matter of adjudication/interpretation by this Court before the Division Bench in the W.A. Nos.186 & 187 of 2018 as would be apparent from the said order.

Paragraph-7 of the said order is reproduced herein:

> *"7. However, when it came to making a resolution on the basis of the above Rules, the Department of Higher Education devised a norm as regards Readers which was inconsistent with the above Rule 7 (1)(iii). In terms of the Resolution dated 4th April 2016, it was stipulated that while Readers with less than five years of service would be re-designated as Assistant Professor Stage-III with the pay scale of Rs.15,600-39,100 + AGP Rs.8,000/-, Readers with five years of service were to be re-designated as Associate Professor and given the pay scale of Rs.37,400-67,000/- + AGP Rs.9,000/-."*

13. The order of the Division Bench of this Court in Writ Appeal has been confirmed by the Hon'ble Supreme Court as the Appellant-State before this Court carried the matter to the Hon'ble Supreme Court by filing SLP (C) No.52757 of 2023 (***The State of Odisha & Others vrs. Siba Shankar Mohanty & Others***) which was dismissed by order dated 17.05.2024. Thereafter, a Review Petition was filed against the order of the Hon'ble Apex Court which has been dismissed by order dated 18.02.2026.

14. The Petitioner shall approach the Registrar, Maharaja Sriram Bhanja Deo University with certified copy of this order and the order dated 17.11.2022 of this Court passed in W.A. Nos.186 & 187 of 2018 (***Priya Ranjan Dash and others vrs. State of Odisha and others***), copy of the order dated 17.05.2024 passed by the Hon'ble Apex Court

dismissing the SLP and the order dated 18.02.2026 passed by the Apex Court in dismissing the Review arising out of the SLP(C) No.11922 of 2024.

15. When the Petitioner approaches the authority again for refixation of the effective date of redesignation, the authority shall do well to consider the implications of the order passed by the Division Bench of this Court and dismissal of the SLP as well as the Review Petition.

16. This Court in no uncertain terms, observes that the redesignation of the Petitioner as an Associate Professor has attained finality; the effective date of redesignation is the issue which shall be considered by the appropriate authority.

17. The Petitioner shall approach by 16th November, 2026 the Registrar for placing her representation before the authority. The appropriate authority of the University shall consider the representation of the Petitioner in accordance with law and also in terms of the observations made in this judgment within a period of three months from the date receipt of the representation along with all the documents.

18. The Writ Petition is disposed of with the above observations and directions.

No costs.

(Mruganka Sekhar Sahoo)
Judge

Orissa High Court, Cuttack
The 30th October, 2026/Amit/Rajesh

Signature Not Verified
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Signed by: RAJESH KUMAR BADHEI
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 30-Oct-2026 20:16:05