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IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.35410 of 2026
CNR No.ODHC010841832026

Sudipta Mohapatra .... **Petitioner**
Mr. K.K. Swain, Advocate

-Versus-

State of Odisha & others .... **Opposite Parties**
Mr. J.K. Bal, AGA

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
29.10.2026

Order No.

01. 1. Heard Mr. Swain, learned counsel for the petitioner and Mr. Bal, learned AGA for the State.

2. Instant writ petition is filed by the petitioner for a direction to the opposite parties and in particular, opposite party No.3 to accept their property statements manually and for considering her promotion from the posts of Level-V-B to the posts of Level-IV Graduate Teacher in accordance with Rule-9 read with Rule-11 (2) (i) & (ii) of the Odisha Elementary (Method of Recruitment and conditions of service of Teachers and Officers) Rules, 1997 (hereinafter referred to as 'the Rules') on the basis of respective positions in the final Gradation List within a stipulated period of time.

3. Mr. Swain, learned counsel for the petitioner submits that submission of a property statement is mandatory, however, the deadline fixed as per the Odisha Government Servants Conduct (Amendment) Rules, 2021 and in terms of Rule 4

thereof is directory in nature and hence, even if the time has expired, a direction may be issued to opposite party No.3 to accept petitioner's property statements manually or in the alternative, the submission is that since in the meantime, opposite party No.2 by letter dated 28th September, 2026 addressed to the Special Secretary to Government, G.A. & P.G Department, Odisha, Bhubaneswar has made a request to open the HRMS Portal for two weeks in respect of the Elementary Cadres Teachers to submit her up-to-date property statements, a direction may perhaps be issued to consider the case of the petitioner in terms thereof subject to the decision of the Government in that regard. A reference is made to Rule 4 of the Rules, 2021 and submission of Mr. Swain, learned counsel is that a Government servant of the Level Group-A to D is required to submit a declaration of her assets Online in HRMS on or before 31st January of every year commencing from 1st January of that year and admittedly in the case of the petitioner, there has been a default. Further referring to Rule 3 of the Orissa Civil Services (Criteria for Promotion) Rules, 1992 (in short as 'the Rules, 1992'), the contention of Mr. Swain, learned counsel is that as per Note (ii)(d) Rule 3 thereof, PAR, Vigilance reports relating to departmental actions, property return and other consequential report shall have to be forwarded Online. The contention is that such submission with regard to property return furnished by a Govt. servant shall be subject to Rule 5 thereof, according to which and in view of the non-abstante clause therein, it shall be

complied with Notwistanding anything to the contrary contained in other recruitment Rules or any other orders or instructions for the time being in force. Essentially the submission of Mr. Swain, learned counsel is that the relevant provision of the Rules, 2021 subject to Rule 5 of the Rules, 1992. In any case, the further submission is that the property return as has been directed in terms of Rule 4 of the Rules, 2021 is not mandatory and to be treated as directory. Nevertheless, the argument of Mr. Swain, learned counsel is that in view of the amendment allowed today, a direction in alternative, may be issued to opposite party No.8 to consider the case of the petitioner in the light of the decision of the Government on the request received from opposite party No.2 dated 28th September, 2026.

4. Mr. Bal, learned AGA for the State, on the other hand, submits that the property return shall have to be furnished in terms of Rule 4 of Rules, 2021 and it is mandatory. The further submission is that the property return is to be uploaded Online in HRMS Portal between 31st January and 1st January of every year and the petitioner having not done so and there is gross default, the receipt of the same cannot be directed manually. Referring to the Rule (supra), the contention of Mr. Bal, learned AGA is that such filing of property return by a Government servant is a pre-requisite for promotion and so to claim that it is directory is misconceived. The intent and purport of the Amendment Rules, 2021 is only to ensure that

the Government servants are to disclose their assets Online. According to Mr. Bal, learned AGA, since such is the policy decision of the Government, this Court has limited role and cannot override the same. In fact, Mr. Bal, learned AGA cites a decision of this Court in **State of Odisha and others Vrs. Mandakini Guru** in WA no.1672 of 2025 decided and disposed of on 19th February, 2026 along with batch of cases to contend that it is within the domain of the Government to consider extension and not the writ court and therefore, any such direction for acceptance of property return manually is not permissible under law. In the peculiar facts and circumstances of the case, wherein, the extension sought for and prescribed therein are also brought to the notice of the Court with the contention of Mr. Bal, learned AGA that for consideration of promotion of the petitioner, it is absolutely mandatory to furnish property statement, to which she has defaulted.

5. For better appreciation, this Court is inclined to extract the relevant observation of this Court in W.A. No.1672 of 2025 in **Mandakini Guru** (supra) and the same is hereunder.

> "4.6.1. The last contention on behalf of the Respondent-employees that ours being a Welfare State and judiciary being one of its institutions, has power to extend the deadline for filing the Property Declaration and that accordingly learned Single Judge has made the impugned judgment, does not merit acceptance. Reasons for this are not far to seek: Firstly, the power to relax is given to the

Government under Rule-31 of 1959 Rules. In exercise of that power, twice the extension was granted by the Government, as already discussed. There is absolutely no justification whatsoever for the Writ Court to assume the powers of Executive and thereby grant further extension. Even otherwise, whether to grant extension is essentially a matter of State Policy, which involves a host of factors that are not judicially assessable, Judges lacking requisite administrative expertise.

4.7. MISCELLANEOUS SUBMISSINS MADE ON BEHALF of THE EMPLOYEES:

(a) In matters like this, the arguments of parity with those who have been granted promotion disregarding delay in filing Property Declaration beyond 31.05.2025, does not come to the aid of Respondents. Equality & parity cannot be chanted as mantra. Where someone is bestowed with some benefit contrary to law, others cannot claim the same on the principle of parity. In other words, those who claim parity in treatment, have to show that what has been given to others, is not in violation of law.

(b) The last contention of learned advocates appearing for the Respondent-employees that, the act of Government in extending the period for filing the Property Declaration twice, created a legitimate expectation to have one more extension, is ridiculous, to say the least. Sporadically things done in statutory discretion are not a breeding ground for

any expectation, much less legitimate. Added, elongation of the timeline was not done with fair degree of regularity, for raising any expectation. It was a kind of one-time measure because more than 50% of public servants had missed the deadline.

(c) In matters relating to periodic Property Declaration, the Government should be very circumspect in relaxing the requirement. Merely because there is some pressure from some quarters, such relaxation cannot be granted mindlessly. It should be only by way of extreme exception to the generality of the Rules. Multiple exceptions would swallow the Rule itself. Having turned the pages of file, we cannot refrain ourselves from saying that such a circumspection is lacking. Be that as it may, the cause of public administration will be more served by sustaining the stand of Government than by disallowing it."

6. In so far as Rules, 2021 is concerned, as per Rule 4 thereof, filing of property return is a pre-requisite for promotion and when the said Rule read in juxtaposition to Rule 5 of the Rules, 1992, this Court is inclined to hold that compliance of the same is not directory. In fact, as per Rule 5 of the Rules, 1992 and the provision of the Rules shall have overriding effect notwithstanding anything contrary contained in any other recruitment rules or orders or instructions from the time being force. According to this Court, such an overriding effect shall

have with regard to any other recruitment rules or orders or instructions of the Government, which is not to include Rule 4 of the Rules, 2021 and therefore is not in a position to accept the argument advanced by Mr. Swain, learned counsel that the compliance is not mandatory, rather, directed. In other words, the contention of Mr. Swain, learned counsel that filing of property return is mandatory and not its filing within the deadline, this Court, with due respect, is unable to subscribe it, rather, of the humble view that the provisions with reference to Rule 4 of the Rules, 2021 needs a mandatory compliance as it stipulates that filing of property return shall be pre-requisite for promotion, which is in fact a condition precedent. With regard to the decision in **Mandakini Guru** (supra), a distinction is sought to be made by Mr. Swain, learned counsel by claiming that extension was allowed twice therein and on third occasion, when was directed by a Single Bench, the same was set aside. On a reading of the said decision, this Court finds that it has been held and observed therein that extension by a writ court is similar to assuming powers of Executive and therefore, grant of any further extension is not permissible which is basically a State policy involving a host of factors that are not judicially quantifiable, an exercise to which, Judges lack requisite administrative expertise. At this juncture, Mr. Bal, learned AGA would submit that the case of the petitioner for any such extension claiming parity is not maintainable referring to the decision in **Mandakini Guru** (supra). Notwithstanding any such plea of the petitioner demanding extension of time, this

Court is inclined to hold that the very non-submission of property return by her within the stipulated period as per Rules, 2021 cannot be countenanced with a direction to accept the same manually.

7. Having said that, in view of the request of opposite party No.2 dated 28th September, 2026 pending before opposite party No.8 having been received in the meantime, this Court is of the view that the case of the petitioner may be considered accordingly subject to any such decision therein by the Government. Since the aforesaid request relates to opening of HRMS Portal for two weeks in respect of Elementary Cadre Teachers so as to enable her to submit property statements Online and it has been advanced by the Elementary Cadre Teachers' Association received by opposite party No.2, this Court is inclined to hold that the petitioner's case for acceptance of property returns shall be subject to decision of the Government and hence, in that regard opposite party No.8 should be directed to consider keeping in view letter dated 28th September, 2026 issued by opposite party No.2 at the earliest preferably within a period of six weeks from the date of receipt of a copy of this order and accordingly, it is ordered.

8. In the result, the writ petition stands disposed of, however, followed by the direction hereinabove for compliance by opposite party No.8. It is further directed that subsequent to the decision of the Government in G.A & P.G Department,

Odisha, Bhubaneswar, consequential action shall be followed soon.

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

(R.K. Pattanaik)
Judge

Sashikant