IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 36263 of 2022
(CNR No. ODHC010910392022)

In the matter of an application under Articles 226 & 227 of the Constitution of India.

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Bharat Chandra Pradhan .... ***Petitioner***

-versus-

State of Odisha & Anr. .... ***Opp. Parties***

For Petitioner : Mr. K.C. Sahu, Adv.

For Opp. Parties : Mr. C.K. Pradhan, AGA
Mr. S.P. Jena, Adv. (for Intervener)

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing:27.10.2026 & Date of Judgment: 27.10.2026

Biraja Prasanna Satapathy, J.

1. This matter is taken up through hybrid mode.

2. Heard learned counsel appearing for the Parties.

3. The present Writ Petition has been filed inter alia with the following prayer:-

> *"It is, therefore humbly prayed that the Hon'ble Court be graciously pleased to pass following prayer:-*
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> *(i) The Hon'ble Court be pleased to allow this writ petition,*
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> *(ii) The Hon'ble Court be pleased to quash the impugned order of cancellation issued by the Opp. party no-2 vide Annexure-7, dtd. 20.07.2022 so for it relates to recruitment of posts of Senior Treatment Supervisor (STS) for which the process of recruitment has already been started and database of the candidates has been prepared after the interview,*
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> *(ii) (a) The Hon'ble Court be pleased to quash the impugned advertisement dtd. 05.09.2023 under Annexure-9 so far it relates to recruitment of the post of Sr. Treatment Supervisor (STS) is concerned.*
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> *(iii) The Hon'ble Court be pleased to further direct the Opp. party no-2 to go ahead with the selection process in respect of recruitment of the posts of Senior Treatment Supervisor (STS) pursuant to the advertisement dtd.26.07.2021 under Annexure-5 like recruitment of other category posts out of the same advertisement by further considering the case of the petitioner for his appointment as Senior Treatment Supervisor (STS) within a time bound period for the interest of justice.*
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> *(iv) The Hon'ble Court be pleased to pass any other order(s), direction(s) as deems fit & proper for the bonafide interest of justice.*
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> *And for this act of kindness, the petitioner shall as in duty bound ever pray;"*

4. Learned counsel appearing for the Petitioner contended that pursuant to the advertisement issued on 26.07.2021 under Annexure-5 by Opp. Party No.2, Petitioner participated in the selection process as against the

post of Senior Treatment Supervisor so indicated vide Sl. No.7 of the nature of the Posts in the advertisement.

4.1. It is contended that even though Petitioner participated in the selection process in terms of the advertisement so issued on 26.08.2021 and all such posts so advertised were filled up, but the advertisement only with regard to the post of Senior Treatment Supervisor was cancelled vide the impugned corrigendum issued on 20.07.2022 under Annexure-7.

4.2. It is contended that since the recruitment in respect of all the posts, save and except the post of Senior Treatment Supervisor were filled up in terms of the advertisement, such an advertisement in respect of the post of Senior Treatment Supervisor could not have been cancelled without assigning any reason vide the impugned corrigendum dated 20.07.2022 under Annexure-7.

4.3. It is further contended that after cancelling the advertisement vide the impugned corrigendum dated 20.07.2022 under Annexure-7, a fresh advertisement when was issued to fill up the post in question vide advertisement dated 05.09.2023 under Annexure-9, this Court taking into account the challenge made in the Writ Petition held that cancellation of

the earlier advertisement under Annexure-7, shall be subject to result of the application.

4.4. Not only that vide order dated 23.04.2024, this Court passed further order by permitting the Petitioner to participate in the selection process pursuant to the second advertisement issued on 05.09.2023. It is however contended that since the advertisement basing on which Petitioner participated in the selection process so issued under Annexure-5 has been cancelled without assigning any reason, the same requires interference of this Court and Opp. Party No.2 be directed to publish the result of the same and provide appointment to the Petitioner, if found qualified.

5. Learned AGA basing on the stand taken in the counter affidavit, when supported the cancellation contending inter alia that, such a step was taken because of the guideline issued by the Mission Directorate on 27.06.2022 under Annexure-B/2, this Court passed the following order on 31.10.2025.

> *"1. Heard learned counsel appearing for the parties.*
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> *2. Copy of the consolidated Writ Petition along with all its annexures is provided to the learned Addl. Standing Counsel in Court.*

3. Since it is contended by the learned counsel appearing for the Petitioner that pursuant to the advertisement issued on 27.06.2021 under Annexure-5 all the posts save and except the post of Sr. Treatment Supervisor were filled up and vide the impugned cancellation order dt.20.07.2022, the post which was applied for by the Petitioner was cancelled, this Court directs learned Addl. Standing Counsel to file an affidavit justifying the reason for such cancellation in respect of a single post even though in the Advertisement, 15 (fifteen) posts were advertised to be filled up.

4. As requested by Mr. A. Pati, learned Addl. Standing Counsel, list this matter in the week commencing 24.11.2025.

5. Interim order passed earlier shall continue till the next date."

6. Pursuant to the order passed by this Court on 31.10.2025, a further affidavit was filed on 06.01.2026 inter alia reiterating the same stand so taken in the counter affidavit already filed. Relying on the letter issued by the Mission Directorate on 27.06.2022, a stand was taken that in terms of the said communication, the advertisement in question so issued under Annexure-5 was cancelled vide the impugned corrigendum dated 20.07.2022 under Annexure-7.

7. Considering the stand taken in the affidavit dated 06.01.2026, this Court passed the following order on 27.02.2026:-

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

2. Heard learned counsel for the parties.

3. Perused the affidavit dated 06.01.2026 so filed by Opp. Party No.2 in terms of order dated 31.10.2025.

4. This Court after going through the said affidavit, is not satisfied with the stand so taken in Para-6. Learned Addl. Standing Counsel is directed to obtain instruction as to whether basing on subsequent guideline issued under Annexure-B/2, criteria for selection can be changed as the advertisement in question was issued on 26.07.2021.

5. Learned Addl. Standing Counsel is directed to obtain instruction on the same.

6. As requested by learned Addl. Standing Counsel, list this matter on 19.03.2026.

7. Interim order passed earlier shall continue till the next date."

8. In terms of the order dated 27.02.2026, learned AGA produced the instruction so provided by the Opp. Party No.2 vide his letter dated 10.08.2026. The instruction so provided reads as follows:-

"At the outset, it is humbly submitted that the advertisement dated 27.06.2021, issued for various posts under National Health Mission, Malkangiri as annexed in Annexure-5 of the W.P.(C) No. 36263 of 2022, was acted upon and the selection process in respect of all the advertised posts was completed, except for the post of Senior Treatment Supervisor (STS) pursuant to Advertisement dated 26.07.2021. Objections were also invited in respect of the said post of STS. In the meantime, revised guidelines were received by the CDM&PHO, Malkangiri, which have been annexed as Annexure-B/2 of the Affidavit dated 06.01.2026 filed by Opposite Party No. 2 CDM &PHO,Malkangiri. In the meantime, this Hon'ble Court, vide order dated 23.04.2026 passed in W.P.(C) No. 36263 of 2022, was pleased to permit the petitioner to participate in the recruitment process pursuant to Advertisement dated 05.09.2023. Thus, the Hon'ble Court had permitted the petitioner to participate in the recruitment process under the revised advertisement. However, despite having been granted such opportunity, the petitioner failed to submit his application and the requisite documents pursuant to the Advertisement dated 05.09.2023 for the post of Senior Treatment Supervisor (STS) during the stipulated time period given by the Hon'ble apex Court.

It is also submitted that, in the meantime, the order dated 23.04.2024 passed by this Hon'ble Court in W.P.(C) No. 36263 of 2022 and L.A. No. 14637 of 2023 had already been complied with by Opposite Party No. 2

by passing a reasoned and speaking order vide Order No. 5329 dated 04.06.2024 attached in (Annexure 1) as enclose.

It is further submitted that the reason for cancellation of the earlier recruitment process was due to the publication of revised guidelines by the competent authority and the period of the earlier advertisement had also exceeded one year. Accordingly, the earlier recruitment process was cancelled and a revised advertisement was issued dated 05.09.2023.

This is for favour of kind information and taking necessary action at your end."

9. Learned AGA accordingly contended that since the advertisement so far as the post of Senior Treatment Supervisor is concerned has been cancelled vide the impugned corrigendum dated 20.07.2022 under Annexure-7 relying on the communication issued by the Mission Directorate on 27.06.2022 under Annexure-B/2 to the counter affidavit, no illegality or irregularity can be found with the same.

9.1. It is further contended that since Petitioner pursuant to the order passed by this Court on 23.04.2024, has participated in the selection process, pursuant to the subsequent advertisement issued under Annexure-9, Petitioner's claim will be considered, if he has qualified in terms of the subsequent advertisement issued under Annexure-9.

10. Mr. S. Jena, learned counsel appearing for the Intervener-Petitioner contended that in the first advertisement issued on 26.04.2021 under Annexure-5 as against the post of Senior Treatment Supervisor, two (2)

posts were shown vacant and Petitioner is one of the Claimant as against those two posts. But in advertisement dated 05.09.2023 under Annexure-9, the vacancy was indicated at three (3) and in the said recruitment process, intervener Petitioner was permitted to appear the viva-voce test. But final select list, has not been published taking into account the nature of the interim order passed in the Writ Petition.

10.1. It is accordingly contended that since one more vacancy was shown in the second advertisement issued on 05.09.2023, there will be no difficulty, if this Court allows the Writ Petition and so also direct the authority to publish the result of the recruitment process as against the post of Senior Treatment Supervisor pursuant to the subsequent advertisement issued on 05.09.2023 under Annexure-9.

11. Having heard learned counsel for the Parties and considering the submission made, it is found that pursuant to the advertisement issued by Opp. Party No.2 on 26.07.2021 under Annexure-5, Petitioner participated in the recruitment process as against the post of Senior Treatment Supervisor. As found two posts were advertised as against the post of Senior Treatment Supervisor. Even though Petitioner participated in the said recruitment process, but when the advertisement in respect of

said post was cancelled with issuance of the impugned corrigendum dated 20.07.2022 under Annexure-7 and a fresh advertisement was issued on 05.09.2023 under Annexure-9, challenging the same, the present Writ Petition was filed.

11.1. As found this Court vide order dated 04.01.2023, while directing the State counsel to obtain instruction in the matter, observed that cancellation of the advertisement under Annexure-7 shall be subject to the result of the Writ application. Subsequently, vide order passed on 23.04.2024, this Court permitted the Petitioner herein to participate in the selection process, pursuant to the second advertisement issued on 05.09.2023. While permitting the Petitioner to participate in the subsequent recruitment process, this Court observed that, post of Senior Treatment Supervisor in terms of the said advertisement shall not be finalised and filled up without leave of this Court.

11.2. As found the impugned corrigendum dated 20.07.2022 under Annexure-7 has been issued by Opp. Party No.2, without assigning any reason whatsoever. It is the view of this Court that since no reason was assigned while cancelling the advertisement vide the impugned corrigendum, stand taken in the counter affidavit and so also in the

additional affidavit that relying on the communication issued by the Mission Directorate on 27.06.2022, the impugned corrigendum was issued, cannot be accepted in view of the decision of the Apex Court in the case of ***Mohinder Singh Gill & Another vs. The Chief Election Commissioner, New Delhi & Others*** reported in ***A.I.R 1978 SC-851.*** Hon'ble Apex Court in Para 8 of the said decision has held as follows.

> ***"8.*** *The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought ,out. We may here draw attention to the observations of Bose J. in Gordhandas Bhanji (AIR 1952 SC 16 (at p.18):*
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> *"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in Ms mind, or what he intended to, do. Public orders made by public authorities are meant to have public effect and are intended to effect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."*
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> *Orders are not like old wine becoming better as they grow older:*
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> *A Caveat".* "

11.3. It is also the view of this Court that since the advertisement was issued on 26.07.2021, relying on the communication issued on 27.06.2022 under Annexure-B/2, no such action could have taken to cancel the advertisement as against the post of Senior Treatment

Supervisor and that too when all other posts in terms of the said advertisement were filled up.

11.4. In view of the aforesaid analysis, this Court is of the view that cancellation of the advertisement dated 26.07.2021 under Annexure-5 as against the post of Senior Treatment Supervisor, so issued vide the impugned corrigendum dated 20.07.2022 under Annexure-7 cannot sustain legal scrutiny.

11.5. Accordingly, this Court is inclined to quash the impugned corrigendum dated 20.07.2022 so issued under Annexure-7 and quash the same accordingly. While quashing the same, this Court directs Opp. Party No.2 to publish the result as against the post of Senior Treatment Supervisor of the advertisement dated 26.07.2021 and if on such publication, it will be found that Petitioner has qualified, consequential action be taken to provide appointment to the Petitioner as against the said post. This Court directs Opp. Party No.2 to complete the entire exercise within a period of six (6) weeks from the date of receipt of this order.

11.6. However, it is observed that since the vacancy as against the post of Senior Treatment Supervisor in the subsequent advertisement dated

05.09.2023 under Annexure-9 has been shown at three (3), as against the vacancy shown in the advertisement dated 26.07.2021 under Annexure-5 at two (2), this Court observe that Opp. Party No.2 after complying the direction in the case of the Petitioner so directed hereinabove, can take appropriate step to fill up the residue vacancy in terms of the advertisement issued on dated 05.09.2023 under Annexure-9 by publishing the result thereof.

12. With the aforesaid observation and direction, the Writ Petition along with all interim applications stands disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

Orissa High Court, Cuttack
Dated the, 27th October, 2026/Jyoti

Signature Not Verified
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Signed by: JYOTIPRAVA BHOL
Reason: Authentication
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