



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.3015 of 2025

***Amit Kumar Biswal and
others***

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Petitioners

Miss. Pami Rath, Sr. Adv.,
M/s. P. Mohanty, Adv.

-versus-

State Of Odisha and another

Opposite Parties

Mr. Pitambar Acharya, Advocate General
Assisted by Mr. M.R. Mohanty, AGA &
Miss. B.K. Sahu, AGA

WP(C) No.3628 of 2025

***Ratikant Mohapatra and
others***

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Petitioners

Miss. Pami Rath, Sr. Adv.,
M/s. P.C. Dash, Adv.

-versus-

State Of Odisha and others

Opposite Parties

Mr. Pitambar Acharya, Advocate General
Assisted by Mr. M.R. Mohanty, AGA &
Miss. B.K. Sahu, AGA

WP(C) No.3908 of 2025

***Rakesh Kumar Mallick and
others***

.....

Petitioners

Miss. Pami Rath, Sr. Adv.,
M/s. S. Gumansingh, Adv.,
M/s. A.S.R. Achary, Adv.

-versus-

State Of Odisha and another

Opposite Parties

Mr. Pitambar Acharya, Advocate General
Assisted by Mr. M.R. Mohanty, AGA &
Miss. B.K. Sahu, AGA



WP(C) No.3956 of 2025

Papun Dash and others

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Petitioners

Miss. Pami Rath, Sr. Adv.,
M/s. M.M. Das, Adv.,
M/s. H.K. Mahali, Adv.

-versus-

State Of Odisha and others

Opposite Parties

Mr. Pitambar Acharya, Advocate General
Assisted by Mr. M.R. Mohanty, AGA &
Miss. B.K. Sahu, AGA

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

06.02.2025

Order No.

- 01.
1. This matter is taken up through Hybrid mode.
 2. Earlier in the day an interim order was passed in the connected matter to the effect that the Petitioners shall be permitted to submit their application through online or offline mode to appear in the recruitment test pursuant to the advertisement dated 17.01.2025 under Annexure-1 to the writ petition for recruitment to the post of Sub-Inspector of Police as has been indicated in the advertisement under Annexure-1. This Court further directed that they shall be allowed to appear in the recruitment test which is likely to be conducted very soon. However, the result shall not be published without the leave of this Court.
 3. In course of the day learned Advocate General of Odisha made a special mention of all the matters including the matters



which were listed by notifying a special list during post-lunch session along with the matters which are in today's cause list at Sl. No.13 & 19.

4. Heard Miss. Pami Rath, learned senior counsel appearing for the Petitioners as well as learned Advocate General of Odisha for the State-Opposite Parties.

5. Miss. P. Rath, senior counsel for the Petitioners contended that the interim order passed by this Court earlier in the writ applications which are listed at Sl No.13 & 19 are perfectly legal and justified and is in the interest of justice and to protect the list till the matter is finally adjudicated. She further contended that there exists a provision in the shape of Rule 28 where relaxation can be granted under Odisha Police Service (Method of Recruitment and Conditions of Service of Sub-Inspector of Police)(Armed) Order, 2021. Furthermore, since the recruitment test has not been conducted since last several years even prior to the COVID-19 outbreak, the Petitioners, who are admittedly over-aged, did not get an opportunity to participate in the recruitment process. In course of her argument, learned senior counsel for the Petitioners referred to the decision in the case of *Nagen Bhoi and others v. State of Odisha and others* reported in *W.P.(C) No.341 of 2023* as well as the recent decision in *Bisheshwar Biswal and others v. State of Odisha and another* reported in *W.P.(C) No.26079 of 2024* and a batch of similar other writ applications which were disposed of by a judgment dated 05.12.2024.

6. She further submitted that although the judgment delivered by the Coordinate Bench in *Bisheshwar Biswal* (supra) has been appealed by the State Government by listing a writ appeal and in the said writ appeal the Hon'ble Division Bench has stayed the



operation of the judgment dated 05.12.2024, however, the same shall not stand in the way of the Petitioners in this case as they have raised grounds which are not covered in the said judgment. She specifically referred to Rule-28 of Odisha Police Order, 2021, which provides for grant of relaxation by the Government in appropriate cases. Therefore, it was contended that although the cases of the Police Personnel are not covered under the Odisha Civil Service (Fixation of Upper Age Limit) Rules, 1989 as amended in the year 2022, however such benefit of relaxation of upper age limit can be granted to the Petitioners by taking resort to Rule-28 of Odisha Police Order, 2021 in appropriate cases. In such view of the matter, learned senior counsel appearing for the Petitioners justified the interim order passed earlier in the day.

7. Mr. P. Acharya, learned Advocate General of Odisha on the other hand objected to the interim orders passed by this Court. He further specifically referred to the judgments in the case of ***Manoranjan Sahu and others v. State of Odisha and Others*** decided by a Division Bench in ***W.P.(C) No.2721 of 2023*** and a batch of similar other matters which were disposed of vide judgment dated 27.06.2023. By referring to the aforesaid judgment in ***Manoranjan Sahu's*** case (supra), learned Advocate General contended that an identical issue has already been adjudicated finally by the Division Bench and the prayer for grant of relaxation of upper age limit has been turned down by the Division Bench by a detailed judgment. In such view of the matter, learned Advocate General contended that in view of the judgment of the Hon'ble Division Bench in ***Manoranjan Sahu's*** case (supra), the interim orders could not have been passed by this Bench.

8. He further contended that the Odisha Civil Service (Fixation



of Upper Age Limit) Rules, 1989 does not apply to the case of the Petitioner. Accordingly, the amendment of the said Rule in the year 2022 also does not apply to the case of the present Petitioners. He further contended that Rule 28 of the Odisha Police Order, 2021 although provides for grant of relaxation of the rules by the Government in the matter of recruitment, however, the same falls within the sole discretion of the Government. Therefore, it would not be proper on the part of this Court to issue a writ of mandamus directing the Government to exercise the power of relaxation under Rule 27 of the OPS Order, 2021.

9. He further contended that an identical issue which was decided by a learned Coordinate Bench taking a different view than the view taken by the Hon'ble Division Bench in ***Manoranjan Sahu's*** case (supra) and in ***Bisheshwar Biswal's*** case (supra), was challenged by the State Government by filing a writ appeal. In the writ appeal, the Hon'ble Division Bench of this Court has stayed the operation of the judgment dated 05.12.2024 passed by the Coordinate Bench. He further contended that the Petitioners should have approached the Hon'ble Division Bench for passing an appropriate interim order. Finally, the Advocate General concluded his submission by saying that in view of the judgment in ***Manoranjan Sahu's*** case (supra) as well as the interim order passed in ***Bisheshwar Biswal's*** case (supra) both by Division Bench, this Court has no power to grant any interim order permitting the Petitioner to participate in the recruitment process.

10. Having heard the learned senior counsels appearing for the respective parties, on a careful examination of the legal issues involved, further keeping in view the judgments relied upon by both sides, this Court is of the view that judicial discipline and propriety



demands that the matter be placed before the Hon'ble Division Bench which is hearing the writ petition in ***Bisheshwar Biswal's*** case (supra) along with all connected matters. In such view of the matter, Registry is directed to place the records before the Hon'ble Acting Chief Justice in course of the day and with the consent of the Hon'ble Acting Chief Justice, the matters be placed before the appropriate Bench as expeditiously as possible, keeping in view the fact that the last date for submission of the application under Annexure-1 is 10th February, 2025. Accordingly, it is directed that all the connected matters be placed before the Hon'ble Acting Chief Justice for his lordships kind consideration.

(Aditya Kumar Mohapatra)
Judge

S.K. Rout

Signature Not Verified

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Date: 06-Feb-2025 18:59:46

