



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.20108 of 2025

Biren Jena

....

Petitioner

Represented by Adv.-
Mr. Biplab P.B. Bahali, Adv.

-versus-

State of Odisha & others

....

Opposite Parties

Represented by Adv.-
Mr. S.K. Jee, AGA

CORAM:

JUSTICE DIXIT KRISHNA SHRIPAD

ORDER

14.08.2025

Order No.

04.

The short grievance of the petitioner is as to denial of admission to his daughter in OP No.4-School on the ground that he is not a civil servant or employed in PSU in the teeth of extant Guidelines obtaining in the realm.

2. Learned counsel appearing for the petitioner, drawing attention of the Court to the document dated 01.04.2025 at Annexure-3 issued by DEO-cum-DPC of Samagra Sikshya, Nayagarh, tells that his client is in the service of Article 12 State entity under the Constitution; his service partakes the character of one in a Public Sector Undertaking. So arguing, he seeks to falter the decision impugned coupled with claim for a direction to admit his child to VI standard in the subject School.

3. Learned AGA-Mr. Jee appearing for the OPs vehemently opposes the petition contending that under the Policy Guidelines, it is only the civil servants, whose children are entitled to gain admission to the institutions of the kind and that petitioner not answering that description, cannot seek



admission for his daughter. He reads out a particular clause in the Guidelines in support of his contention. Learned AGA appearing for the OPs further submits that though the school in question is a Government School, petitioner is only an employee of a society registered under the provision of Societies Registration Act, 1860 and therefore, petitioner does not fall within the parameters.

4. Having heard learned counsel for the parties and having perused the petition papers, this Court is inclined to grant indulgence in the matter, inasmuch as the expression 'civil servant' is conspicuously absent in the Guidelines. Larned AGA-Mr. Jee in all fairness agrees that the children of employees in the PSU are entitled to admission. The word 'Public Sector Undertaking' answers the description of instrumentality of State in the light of Apex Court Decision in ***Sukhdev Singh, Oil & Natural Gas v. Bhagat Ram***, AIR 1975 SC 1331. That apart, the very concept of instrumentality of State under Article 12 itself has been expanded precedent by precedent vide ***Ramana Dayaram Shetty vs The International Airport Authority of India***, AIR 1979 SC 1628.

5. Learned counsel appearing for the petitioner draws the attention of this Court to a Coordinate Bench decision in ***Purna Chandra Bag v. State of Odisha***, 2023 (III) ILR-CUT 280, wherein the nature of service of employees of petitioner's kind has been discussed; paragraph 8 of the judgment reads as under:

"Having heard learned counsel for the parties and after going through the materials available on record, it is found that the Executive Committee in its 26th meeting held on 16.02.2010 though approved for creation of the posts of Accountant-cum-Date Entry operator to be filled up at the block level, but the said post was designated as Accountant-cum-Support Staff by the Opp. Party No. 2 while issuing the communication dt.07.02.2011 under Annexure-1. Basing on the said communication though it is not disputed that all the petitioners



were engaged as Accountant-cum-Support Staff at the block level pursuant to the advertisement issued by the concerned Collector-cum-Chairman, Sarva Siksha Abhiyan in different districts, but taking into account the qualification prescribed for Accountant at the block level and that of the Accountant engaged in the State Project office and District Project Office, this Court is of the view that the qualification prescribed for engagement of the Accountants at the block level as well as in the district level and State level are similar. It is also found from the record that as per Regulation-45(a) of the 1996 regulation, it has been clearly provided that the Scale of Pay in respect of the post to be created by the Executive Committee shall correspond either to the Central Government or State Government scale of pay. It is also found from the record that the Executive Committee in its 30th meeting held on 06.03.2014 vide Item No. 6.4 also approved to extend the benefit enjoyed by the different employees as per OPEPA Employees Service Rules and Regulations 1996 to the block level Accountant engaged at BRCs level.”

These observations should be a complete answer to the objection raised by the learned AGA.

6. After all, the Guidelines governing the admission to schools of the kind are not pure statutory instruments, although they have abundant public law elements, but for which writ jurisdiction was not invokable. Such Guidelines have to be liberally construed to advance the cause for which they have been promulgated. If children of ‘civil servants’ were alone to be the intended beneficiaries, the clause extending the similar benefit to the children of employees of PSUs would not have appeared in the guidelines. It hardly needs to be stated that the employees of PSUs are not ‘civil servants’ in its true sense. If employees of a society duly registered by the State Government under the provisions of Societies Registration Act, 1860 were intended to be kept away from the precincts of these Guidelines, a suitable provision for such exclusion would have been made. Admittedly, the society in question is funded by the State Government and the Central Government



in a particular proportion and therefore, it cannot be gainfully argued that the petitioner is not in public employment in its broader sense. An argument to the contrary if countenanced would be defeative of the intent and policy content of the subject Guidelines.

In the above circumstances, this writ petition succeeds; a Writ of Mandamus issues to the OP No.4-School to admit petitioner's daughter, Ms. Sonali Rajalaxmi to VI Standard forthwith, of course subject to usual compliances.

Costs made easy.

Web copy of this order to be acted upon by all concerned

(*Dixit Krishna Shripad*)
Judge

Prasant

Signature Not Verified

Digitally Signed
Signed by: PRASANT KUMAR SAHOO
Reason: Authentication
Location: Orissa High Court
Date: 14-Aug-2025 19:07:25

