

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 9879 of 2016

Abhijit Mahal & Ors.

.....

Petitioners

Mr.A.K.Barik, Advocate

Vs.

State of Orissa & Ors.

.....

Opposite Parties

Mr. G.N.Rout, ASC

CORAM: JUSTICE SANJAY KUMAR MISHRA

ORDER

10.04.2023

Order No.

07.

This matter is taken up through hybrid mode.

2. Mr.A.K.Barik, learned Counsel for the Petitioners, so also Mr. G.N. Rout, learned Additional Standing Counsel for the Opposite Parties are present.

3. This court as an interim, vide order dated 13.06.2016, directed that the Petitioner shall be allowed to take part in the selection process on production of certified copy of the order and their result shall be kept in a sealed cover, which shall be subject to the result of the Writ Petition.

4. In response to the Counter Affidavit, to which a Rejoinder Affidavit has been filed by the Petitioner on 27th September, 2016, Mr.Barik, learned Counsel for the Petitioners submits, despite direction given by this Court to permit the Petitioners to appear in the selection process, they were not allowed to enter into the event venue, which occurred on 4th August, 2016.

5. Mr.Barik draws attention of this Court as to the averments made in the para 12 of the Rejoinder Affidavit , which is extracted below:-

“12. That for the averment in para 14,15 and 26 of the counter affidavit it is to be mentioned that a recruitment process was held on 04.08.2016 without any intimation to the

petitioners and though the petitioners approached the authorities on their own in the hope and with request to participate in the process of re-engagement/re-appointment, they were overlooked and were neither called into any recruitment process nor given entry to the event venue on 04.08.2016 closing every avenue for the re-engagement/re-appointment of the petitioners despite the plea of the authorities that the apprehensions of the petitioners are misconceived and that the petitioners would be given fair and equal treatment.”

6. Mr.Rout, learned ASC draws attention of this Court as to the averments made in para 3 of the misc case No.10797 of 2017, which is extracted below:-

3. “That as per interim order of the Hon’ble High Court, the Ex-Home Guards (including the petitioners) were allowed to take part in the selection process of Home Guards and the result of the selection has been kept in a sealed cover. But due to non-publication of result, the Opp.Paties are unable to fill up the vacancies in the rank of Home Guards which are gradually increasing in number. Thus, due to operation of the interim order and pendency of the writ petition, the Opp.Parties are unable to man the Home Guard organization with adequate strength. As a result, great difficulties are being experienced by the competent authorities in maintenance of law and order duties required during the visits of VVIPs, traffic control, night patrolling and watch and ward duty at the missile test range at ITR Chandipur, Balasore due to shortage of Home Guard.”

7. He submits, in view of the interim order passed by this Court the entire result so far been kept in a sealed cover and due to non publication of result, the Opposite Parties are unable to fill up the

vacancies in the rank of Home Guard, which are gradually increasing in number.

8. In response to the said submission of Mr.Rout, learned ASC, Mr.Barik, learned Counsel for the Petitioners submits that the said Misc. Case has been filed much after filing of Rejoinder Affidavit by the Petitioner and no reply to the Rejoinder Affidavit has been filed by the State-Opposite Party till date disputing the said averments made in the Rejoinder Affidavit.

9. He further submits, because of financial constraints and other unavoidable reasons, the Petitioners could not approach this Court in time for initiating contempt proceeding against the Opposite Parties for willful flouting of the Order dated 13th June, 2016 passed in this case.

10. In view of such submissions made by learned Counsel for the Parties, Mr.Rout, learned ASC is directed to take instruction and file a specific affidavit to the said effect on the adjourned date, which will be accepted upon advance copy served on the learned Counsel for the Petitioner.

11. Mr.Rout, learned ASC is further directed to produce the result of the present Petitioners and others, which has been allegedly kept in a sealed cover, as has been stated in Misc. Case No.10797 of 2017.

12. Matter be listed on 27th April, 2023.

(S.K. MISHRA)
JUDGE

Banita