



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.334 of 2025

Biswambhar Sahu

.....

Petitioner

Represented by Adv. -
Kunal Kumar Swain

-versus-

State Of Odisha & Ors.

.....

Opposite Parties

Represented by Adv. -
Mr. S.Behera, A.G.A.
M/s.prabhat Kumar
Dash, Prakash Kumar
Rout,m/s Sangram Jena,
Bikash Mishra

WP(C) No.10711 of 2025

Biswambhar Sahu

.....

Petitioner

Represented by Adv. -
Kunal Kumar Swain

-versus-

State Of Odisha & Ors.

.....

Opposite Parties

Represented by Adv. -
Mr. S.Behera, A.G.A.

M/s Kali Prasanna
Mishra, Adv. along with
Mr.Prabhat Kumar Das,
Adv.

WP(C) No.28248 of 2025

Biswambhar Sahu

.....

Petitioner

Represented by Adv. -
Kunal Kumar Swain

-versus-

State Of Odisha & Ors.

.....

Opposite Parties

Represented by Adv. -
Mr. S.Behera, A.G.A.

Mr. Prabhat Kumar
Dash, Adv. for O.P.
No.4



CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER

Order No.

25.02.2026

06. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard Mr. K.K.Swain, learned counsel appearing for the Petitioner, Mr.Sangram Jena, learned counsel appearing for the Opposite Party No.5, learned counsel appearing for the Managing Committee-Opposite Party No.4 and learned counsel for the State-Opposite Party Nos.1, 2 & 3. Perused the writ applications as well as the counter affidavit filed by the Opposite Party Nos.1, 2 & 3 as well as the rejoinder affidavit of the Petitioner.
3. The present writ applications have been filed at the instance of the Petitioner with a prayer to quash the impugned order dated 05.12.2024 passed by the Headmaster-cum-Secretary of the School in question at Annexure-6 and further for a direction to the Opposite Parties to reinstate the Petitioner in his former post forthwith with all consequential services and financial benefits as per order dated 20.06.2018 passed by the Joint Director School attached to the Office of the Regional Director of Education, Odisha, Bhubaneswar at Annexure-4.

W.P.(C) No.10711 of 2025

4. Heard Mr. K.K.Swain, learned counsel for the Petitioner as



well as learned counsels appearing for the Opposite Parties. Perused the writ application as well as the counter affidavit filed by the Opposite Party No.4. Mr. Jena, learned counsel appearing for the Opposite Party No.5 at the outset contended that although the Opposite Party No.5 has been arrayed as an Opposite Parties to the writ application no notice has been issued to her and that she has not been served with a copy of the writ application. A copy of the writ application is served on Mr. Jena, learned counsel for Opposite Party No.5 in Court today.

5. The abovenoted writ application has been filed by the Petitioner with a prayer to quash the memorandum of charges dated 11.02.2025, issued under Rule 15 of the OCS(CCA) Rules, 1962 at Annexure-8, so also the order of suspension dated 27.02.2025 passed by the Headmaster-cum-Secretary of Khandatiri High School, At-Khandatiri in Dhenkanal district at Annexure-10. He has also prayed for a direction to the Opposite Party No.4 to allow the petitioner to continue as a regular Hindi Teacher in the school in question and for a direction to approach the appointment of the Petitioner as a Hindi Teacher by the D.E.O., Dhenkanal-Opposite Party No.3. The Petitioner has also prayed for termination of service of the Opposite Party No.5.

WP(C) No.28248 of 2025

6. The above writ application has been filed at the instance of the Petitioner, who is also the Petitioner in W.P.(C) No.334 of 2025 and W.P.(C) No.10711 of 2025, with a prayer for issuance of appropriate direction to the Opposite Parties, more particularly to the D.E.O., Dhenkanal-Opposite Party No.3, to release the monthly salary of the Petitioner in his favour w.e.f. 05.02.2025 within a stipulated period



of time.

7. I.A. No.4115 of 2026 has been filed on 22.02.2026 by the Opposite Party No.5 in the past two writ applications to intervene in the present writ application.

8. Heard learned counsel for the I.A.-Petitioner as well as the learned counsel for the Opposite Parties. The Petitioner does not have any objection to the intervention application filed by the Intervenor. In such view of the matter, intervention application is allowed. The intervenor be added to the writ application as the Opposite Party No.5.

9. I.A. stands disposed of.

10. Since all the writ applications are based on a common set up facts and the parties are similar in both the writ application, both the writ applications are taken up today for analogously hearing.

11. The factual background of the present litigation in brief is that the Petitioner was initially appointed on 20.09.1995 by the Managing Committee of the School in question. Thereafter, the Petitioner joined in the School in question as a Hindi Teacher pursuant to the order at Annexure-1. On being appointed as a Hindi Teacher, the Petitioner continued to discharge his duties as such. It is further alleged that the Petitioner was prevented to discharge his duties since 09.11.2010. It has also been alleged that the Petitioner rendered his resignation before the Managing Committee of the School. Learned counsel for the Petitioner at this juncture contended that such resignation letter is a nullity in the eyes of law since the same was submitted under pressure and coercion. Being aggrieved by the conduct of the Managing Committee of the School, the Petitioner preferred an appeal before the Regional Director of Education,



Odisha, Bhubaneswar.

12. The appeal preferred by the Petitioner was finally heard and disposed of by the Joint Director of the School vide order dated 17.06.2016. The said order was challenged before this Court by filing W.P.(C) No.13985 of 2016. This Court then remanded the matter back to the Joint Director for re-hearing of the dispute. Finally, vide order dated 20.06.2018 at Annexure-4, the Joint Director of School allowed the appeal with a direction to the Managing Committee to take back the Petitioner in service forthwith by granting liberty to the Managing Committee to initiate a disciplinary proceeding against a Appellant for the alleged misconduct, as reported by the authorities of BSE, Odisha as per the relevant rules and, finalise such proceedings as early as practicable.

13. After disposal of the appeal of the Petitioner vide order dated 20.06.2018, whereby the Managing Committee was directed to reinstate the Petitioner in service, the Opposite Party No.5, who had been appointed as a Hindi teacher in place of the Petitioner and whose appointment has already been approved by the Government, approached this Court by filing W.P.(C) No.11309 of 2018. Although, initially an interim order was passed staying the order dated 20.06.2018 at Annexure-4, however finally the writ application was disposed of vide judgment dated 03.10.2024, thereby dismissing the writ application and affirming the order of the Joint Director dated 20.06.2018. As against the aforesaid judgment dated 03.10.2024, it is stated by the learned counsel for the Opposite Party No.5, that a writ appeal has been preferred bearing W.A. No.537 of 2025. However, no interim order has been passed in such pending writ appeal.

14. Thereafter, the present batch of writ applications have been



filed by the Petitioner seeking different reliefs as has been indicated hereinabove. Learned counsel for the Petitioner at this juncture contended after the order dated 20.06.2018 and after dismissal of the writ petition filed by the Opposite Party No.5, the petitioner was not reinstated in service. As a result of which, the Petitioner approached this Court by filing the W.P.(C) No.334 of 2025 wherein a Coordinate Bench of this Court passed an order directing the Opposite Parties to implement order dated 20.06.2018 at Annexure-4. By virtue of order dated 31.01.2025, the learned Coordinate Bench directed Opposite Party No.4 to allow the Petitioner to Join as a Hindi Teacher by 5th February, 2025 if such a joining report has been submitted by the Petitioner. The aforesaid interim order dated 31.01.2025 has been carried out in the meantime and the Petitioner has been reinstated in service as a Hindi Teacher.

15. The grievance of the Petitioner in the present batch of writ application is that although the Petitioner has been reinstated in service, however the service of the Opposite Party No.5 as a Hindi Teacher has been approved and she is getting grant-in-aid upon her appointment being approved by the State-Opposite Parties. Learned counsel for the Petitioner at this juncture contended that once the Petitioner was reinstated in service vide order dated 20.06.2018 at Annexure-4, which was confirmed by this Court in the previous writ application, the vacancy in the post of Hindi Teacher is to be filled up by the present Petitioner. Since there was no other post of Hindi Teacher, the Opposite Party No.5 could not have been allowed to continue in the post of Hindi Teacher pursuant to the order dated 20.06.2018. Therefore, it is alleged that the approval of the post of Opposite Party No.5 is illegal and since there was no vacancy in the post of Hindi Teacher the Opposite Party No.5 could not have been



appointed as a Hindi Teacher in the School in question. In view of the aforesaid position, learned counsel for the Petitioner contended that the order passed by the Joint Director of School dated 20.06.2018 at Annexure-4 be implemented by the State-Opposite Parties by not only reinstating the Petitioner in his post but also by approving such post to receive the grant-in-aid. Further, a direction has also been sought for to quash the appointment of the Opposite party No.5 and to direct the Opposite Parties to pay the salary to the Petitioner.

16. Learned counsel appearing for the Opposite Party No.5 at the outset contended that the Opposite Party No.5 has been duly appointed by the Manging Committee of the School in question on 16.09.2012. Thereafter, she has been discharging her duties as a Hindi Teacher in the school in question. Learned counsel for the Opposite Party No.5 further contended that the post of Opposite Party No.5 has also been approved in the meantime w.e.f. 01.10.2015. Accordingly, she has been receiving the salary and the grant-in-aid from the concerned D.E.O. In such view of the matter, learned counsel for the Opposite Party No.5 contended that there is no illegality in the appointment and the approval of the Opposite Party No.5 against the post of Hindi Teacher in the school in question. Therefore, the writ applications against the Opposite Party No.5 is bound to fail and that the Opposite Party No.5 be allowed to discharge her duties as a Hindi Teacher.

17. Learned counsel for the State on other other hand referred to the counter affidavit filed by the State-Opposite Party Nos.1, 2 & 3. In course of his argument, learned counsel for the State specifically referred to Para-13 & 14 of the counter affidavit and stated before this Court that there is only one post of Hindi Teacher in the school



in question that has been sanctioned by the Government and that the Opposite Party No.5 has been appointed by the Managing Committee of the School by resolution dated 15.09.2012 and such post has been approved by the D.E.O., Dhenkanal on 20.10.2017 to facilitate payment of GIA (40%) w.e.f. 01.10.2015. Learned counsel for the State further submitted that the continuance of the present Petitioner in the post of Hindi Teacher w.e.f. 05.02.2025 is not maintainable in the eyes of law and the said post has been filled up earlier w.e.f. 21.09.2012 by the Opposite Party No.5. Accordingly, it was prayed that the present writ applications being devoid of merit, are liable to be dismissed.

18. On perusal of the counter affidavit filed on behalf of the Opposite Party Nos.1, 2 & 3, it appears that such affidavit was sworn by one Binita Senapati working as District Education Officer, Dhenkanal. The stand taken in the counter affidavit runs contrary to the order passed by the Joint Director of School dated 20.06.2018. The present case is a glaring instance where the impugned order passed by the Joint Director is being assailed by the D.E.O. by filing a counter affidavit. The conduct of the officers involved in the present case gives an impression how the Education Department in the State is functioning. It is particularly disappointing to learn that the counter affidavit has been filed on behalf of the Opposite Party Nos.1, 2 & 3 i.e. Commissioner-cum-Secretary to the Government, School & Mass Education Department, The Director, Secondary Education and The District Education Officer, Dhenkanal. On a close scrutiny of counter affidavit as well as the impugned order, this Court is of the view that the Opposite Party Nos.1 & 2 have not examined the issue and gone through the counter affidavit before giving consent to the Opposite Party No.3 to share such affidavit on



their behalf. The conduct of the Opposite Parties in the present case raises many doubts with regard to the proper functioning in the entire Education Department in the State.

19. In the aforesaid factual backdrop, taking note the order dated 20.06.2018 passed by the Joint Director of School as well as the counter affidavit filed on behalf of the Opposite Party Nos.1, 2 & 3, which has been sworn by the Opposite Party No.3-District Education Officer, Dhenkanal. all three writ applications are relegated to the Opposite Party No.1 to consider the issue afresh. The Opposite Party No.1 shall provide opportunity of hearing to all concerned parties and, after hearing the parties the issue involved, all the three writ applications be addressed by the Opposite Party No.1 as per law within a period of six weeks from the date of communication of a copy of today's order. Liberty is granted to the parties to raise all the grounds along with all supporting documents before the Opposite Party No.1. In such eventuality, the Opposite Party No.1 shall take into consideration the grounds taken by the parties and the issue involved in the three writ applications be disposed of by passing a speaking and reasoned order.

20. With the aforesaid observation and directions, all the writ applications stand disposed of.

(A.K. Mohapatra)

Judge

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