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ORISSA HIGH COURT : CUTTACK

WP(C) No.32258 of 2025

An application under Articles 226 & 227 of the Constitution of India.

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Kalyanmayee Self Help Group, Jaleswar represented through its Secretary, District-Balasore.

... **Petitioner.**

-VERSUS-

State of Odisha & Others
... **Opposite Parties.**

Counsel appeared for the parties:

For the Petitioner : Ms. P.S. Mohanty, Advocate

For the Opposite Parties : Mr. A.P. Bose, Advocate (for the O.P. No.6).
Ms. U. Padhi, Addl. Standing Counsel
(for the State)

P R E S E N T:

**HONOURABLE
MR. JUSTICE ANANDA CHANDRA BEHERA**



Date of Hearing : 15.01.2026 :: Date of Judgment : 09.02.2026

JUDGMENT

ANANDA CHANDRA BEHERA, J.—

1. This writ petition under Articles 226 and 227 of the Constitution of India, 1950 has been filed by the petitioner-Kalyanmayee Self Help Group, Jaleswar against the Opp. Parties praying for quashing the order dated 18.10.2025 (Annexure-25) passed by the Director, ICDS & SW, Women & Child Development Department (Opp. Party No.2), and the Order dated 27.10.2025 (Annexure-26) passed by the Collector & District Magistrate, Balasore (Opp. Party No.3) in favour of the Opp. Party No.6 (Maa Kamala Self Help Group).

2. The factual backgrounds of this writ petition which prompted the petitioner for filing of the same is that, as per the order dated 01.09.2025 (Annexure-24) passed by this Court in WP(C) No.22630 of 2025 filed by the Opp. Party No.6 (Maa Kamala Self Help Group) against the State and others, liberty was given to the petitioner in that writ petition vide WP(C) No.22630 of 2025 to prefer an appeal before the Director, Special Projects within 10 days challenging the



engagement of the petitioner of this writ petition in THR production and distribution according to the revised guidelines of the Government and if such an appeal is preferred, the appellate authority shall consider the same in accordance with law after following due procedures and to pass a reasoned order within 4 (four) weeks.

As per the aforesaid order dated 01.09.2025 (Annexure-24) passed in WP(C) No.22630 of 2025 by this Court, the Opp. Party No.6 in this Writ Petition preferred an appeal before the Director, ICDS & SW, Women & Child Development Department (Opp. Party No.2).

The said appeal of the Opp. Party No.6 was disposed of on dated 18.10.2025 (Annexure-25) by the Opp. Party No.2 directing Collector and District Administrator, Balasore (Opp. Party No.3)

“to adopt a free, fair and transparent process for the engagement of WSHG for THR production and distribution clarifying that, all the eligible WSHGs should be given adequate opportunity to participate in the said process before the Opp. Party No.3 and the applicant fulfilling all conditions and having



good track record in all aspects should be selected adhering to the revised THR GUIDELINES, 2018 and the compliance report with details justification in the said matter should be submitted to the Department of WSD within 15 working days.”

On the basis of the said order dated 18.10.2025 (Annexure-25) passed by the Opp. Party No.2 in an appeal, the Collector and District Magistrate, Balasore (Opp. Party No.3) as per Order dated 27.10.2025 (Annexure-26)

“selected to the Opp. Party No.6 to produce/prepare THR Chhatua & MSPY under SNP for the remaining period of 2025-26 for the entire Jaleswar ICDS Project w.e.f. 01.11.2025 and disengaged Kalyanmayee SHG of Jaleswar (petitioner) from the same and directed to the petitioner Kalyanmayee SHG of Jaleswar (petitioner) to handover stock of the unutilized wheat, so supplied forthwith to Opp. Party No.6 and also directed to the DSWO, Balasore and the CDPO, Jaleswar to implement the said order dated 27.10.2025.”

Accordingly, the DSWO and CDPO Balasore (Opp. Party Nos.4 & 5) issued Letters vide Annexure 27 series to the Opp. Party No.6 for the preparation and distribution of THR



Chhatua and MSPY for the year 2025-26 for the entire Jaleswar ICDS Project.

3. On being aggrieved with the aforesaid Order dated 27.10.2025 (Annexure-26) passed by the Collector & District Magistrate, Balasore (Opp. Party No.3) and its consequential Letters vide Annexure-27 series, the petitioner challenged the same by filing this Writ Petition under Articles 226 & 227 of the Constitution of India, 1950 praying for quashing the annexures 26 & 27 series on the ground that, the said Orders and Letters vide Annexures 26 & 27 series passed/issued by the Opp. Party Nos.3 to 5 are not in conformity with law, the same are liable to be quashed.

4. I have already heard from the learned counsel for the petitioner, the learned counsel for the Opp. Party No.6 and the learned Addl. Standing Counsel for the Opp. Party Nos.1 to 5.

5. It is the undisputed case of the parties that, the appellate authority i.e. Opp. Party No.2 had disposed of the Appeal on dated 18.10.2025 (Annexure-25) and directed the Opp. Party No.3 (Collector-cum-District Magistrate, Balasore) to adopt a free, fair and transparent process for the selection



of WSHG for the production and distribution of THR Chhatua clarifying that, all the eligible WSHGs should be given adequate opportunity to participate in the process of selection and the applicant, who will fulfil all conditions and having good track record in all aspects shall be selected adhering to the revised THR GUIDELINES, 2018.

Though, it appears from the Annexure-26 that, the Collector and District Magistrate, Balasore selected Opp. Party No.6 to produce/prepare THR Chhatua & MSPY under SNP for the remaining period of 2025-26 for the entire Jaleswar ICDS Project w.e.f. 01.11.2025 as per Order dated 27.10.2025 and disengaged the petitioner-SHG from the same, but, the impugned order dated 27.10.2025 (Annexure-26) has not been passed by the Opp. Party No.3 in conformity with the directions given by the (Opp. Party No.2) in Annexure-25.

6. It is the settled propositions of law that, an appeal is the judicial examination of a decision of a subordinate Court or authority.

Where power is given to do, a certain thing in a certain way, the said thing must be done in that way or not at all.



The performance of the same on the other way beyond the direction is not permissible under law.

On this aspect, the propositions of law has already been clarified in the ratio of the following decisions:

(I) In the cases between ***Nazir Ahmad v. King Emperor reported in AIR 1936 (PC) 253, Babu Verghese v. Bar Council of Kerala reported in (1999) 3 SCC 422 & Meera Sahni vs Lt. Governor Of Delhi & Ors reported in 2008 (9) SCC 177*** that, when power is given to do a certain thing in a certain way, the thing must be done in that way or not at all.

(II) In a case between ***Bses Rajdhani Power Ltd. Versus Delhi Electricity Regulatory Commission reported in 2023 (4) SCC 788*** that, an appeal is the judicial examination of a decision of a subordinate court by a higher court to rectify any possible error(s) in the order under appeal.

7. In obedience to the direction given by this Court in the Order dated 01.09.2025 (annexure-24) passed in WP(C) No.22630 of 2025, the appellate authority i.e. Opp. Party No.2 directed to the Opp. Party No.3 to dispose of the appeal after giving adequate opportunity to all eligible WSHGs including



the petitioner-WSHG to participate in the process of selection before the Opp. Party No.3, but the impugned order dated 27.10.2025 (Annexure-26) passed by the Opp. Party No.3 does not reveal about the providing of any opportunity to the petitioner-SHG of this writ petition for hearing during selection process. For which, it is held that, the Opp. Party No.3 has not discharged its duties as per the directions given in the order dated 18.10.2025 passed by the Opp. Party No.2 (Appellate Authority).

8. As per law, when it was the duty of the Opp. Party No.3 to select the eligible WSHG after giving opportunity of being heard to all the applicant-WSHGs including the petitioner-WSHG and when the impugned order of selection vide Annexure-26 passed by the Opp. Party No.3 does not reveal about the providing of any opportunity of hearing to the petitioner-WSHG during selection process, then, at this juncture, in view of the principles of law enunciated in the ratio of the aforesaid decisions, the impugned order dated 27.10.2025 (Annexure-26) passed by the Collector and District Magistrate, Balasore (Opp. Party No.3) cannot be



sustainable under law, because, the said order has not been passed in conformity with the directions made by the appellate authority for the reasons assigned above.

For which, the said order dated 27.10.2025 (Annexure-26) passed by the Collector and District Magistrate, Balasore cannot be sustainable under law, but the same is liable to be quashed and the Collector and District Magistrate, Balasore (Opp. Party No.3) is to be directed to decide the same afresh in compliance to the the direction given by the appellate authority i.e. Opp. Party No.2 in the order dated 18.10.2025 in full compliance of the principles of natural justice after giving adequate opportunity of hearing to all the eligible WSHGs including the petitioner in this writ petition.

9. When on the basis of Annexure-27 series, the Opp. Party No.6 is preparing and distributing the THR Chhatua & MSPY of Jaleswar ICDS Project and the said Chhatua distribution is for public welfare and same is a welfare measure of the State, then, if at this stage, the Opp. Party No.6 shall be restrained from preparing and distributing the THR Chhatua & MSPY of Jaleswar ICDS Project, then, the said order will ultimately



affect the whole administration relating to the preparation and distribution of the THR Chhatua & MSPY of Jaleswar ICDS Project. Therefore, till the disposal of the matter afresh by the Opp. Party No.3, the Opp. Party No.6 should not be restrained/prevented from preparing and distributing the THR Chhatua & MSPY of Jaleswar ICDS.

10. In result, the writ petition filed by the petitioner is allowed in part on contest.

11. The impugned order dated 27.10.2025 (Annexure-26) passed by the Collector and District Magistrate, Balasore (Opp. Party No.3) relating to the selection of WSHG for preparation and distribution of the THR Chhatua & MSPY of Jaleswar ICDS Project is quashed keeping the engagement of the Opp. Party No.6-WSHG in the said Annexure-26 for preparation and distribution of the THR Chhatua & MSPY of Jaleswar ICDS Project intact/undisturbed.

The matter is remitted back to the Collector and District Magistrate, Balasore for deciding the same afresh in full compliance of the order dated 18.10.2025 (Annexure-25) passed by the appellate authority i.e. Opp. Party No.2 after



giving opportunity of being heard to all the eligible WSHGs including the petitioner-WSHG & Opp. Party No.6-WSHG clarifying that, till the fresh decision in the said matter by the Opp. Party No.3 on the basis of this Judgment, as an interim, the production and distribution of THR Chhatua & MSPY made by the Opp. Party No.6 as per Annexure-26 & 27 series, shall continue subject to the result of the fresh disposal made by the Collector and District Magistrate, Balasore (Opp. Party No.3) on the basis of this Judgment.

12. As such, this writ petition filed by the petitioner-WSHG is disposed of finally.

(ANANDA CHANDRA BEHERA)
JUDGE

High Court of Orissa, Cuttack
The 09.02.2026// Rati Ranjan Nayak
Sr. Stenographer