



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27345 of 2024

Suwendu Kumar Sahoo Petitioner

Mr. U.K. Samal, Advocate

-Versus-

State of Odisha & Others Opposite parties

Mr. Rajdeep Pradhan, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER
11.11.2024

I.A. No.----- of 2024

Order No.
01.

1. Heard Mr. Samal, learned counsel for the petitioner.
2. Instant I.A. is filed by the petitioner seeking amendment to the writ petition incorporating the facts as per schedule appended thereto on the grounds stated. A copy of the said I.A. is already served on the counsel for the State in Court.
3. I.A. be registered forthwith.
4. A copy of the I.A. is requested to be served on Mr. D. Mohapatra, learned counsel for opposite party Nos.5 to 7. In fact, Mr. Mohapatra, learned counsel files Vakalatnama in Court for opposite party Nos.5 to 7 and the same is accepted and taken on record. The names of Mr. Mohapatra, learned counsel and his associates be reflected in the cause list and brief hence forthwith appearing for opposite party Nos.5 to 7.
5. Mr. Ashok Das, learned counsel and associates have entered appearance for opposite party No.8 and filed Vakalatnama in Court



today and the same is also accepted. The names of Mr. Das, learned counsel and associates be mentioned in the cause list and brief henceforth.

6. Mr. Samal, learned counsel for the petitioner submits that the amendment is formal in nature and hence, it should be allowed.

7. Recorded the submission of Mr. Pradhan, learned ASC for the State-opposite parties. Objection of Mr. Mohapatra, learned counsel for opposite party Nos.5 to 7 is also recorded

8. On a reading of the contents of the petition, this Court finds that certain developments have been taken place in the meantime. For such amendment to the writ petition, this Court is of the view that the amendment as has been sought for is unlikely to change the nature and character of the writ petition and therefore, the same should be allowed incorporating the proposed amendment as per schedule.

9. Accordingly, it is ordered.

10. Mr. Samal, learned counsel for the petitioner files consolidated writ petition in Court today and it is accepted and be kept in record.

(R.K. Pattanaik)
Judge

W.P.(C) No.27345 of 2024

02.

1. Heard Mr. Samal, learned counsel for the petitioner, Mr. Pradhan, learned ASC for the State-opposite parties, Mr. Mohapatra, learned counsel for opposite party Nos.5 to 7 and Mr. Das, learned counsel for opposite party No.8.



2. Instant writ petition is filed by the petitioner challenging the no confidence motion initiated against him pursuant to Annexure-8 on the grounds stated therein.

3. Mr. Samal, learned counsel for the petitioner submits that disqualification of three of the Councilors as per Section 46 of the Orissa Municipal Act (hereinafter referred to as the Act') is pending and since the vote of confidence is held in absence of two third members and in so far as the Councilors having resigned in the meantime and stand to disqualification in view of the provisions of the Act, hence, the no confidence motion should not be allowed to happen. The second limb of argument of Mr. Samal, learned counsel for the petitioner is that there has been no due compliance of Section 54(i)(ii) of the Act since the requisition is not followed with the proposed resolution of the meeting which has been held on 4th November, 2024 and while claiming so, he cited a decision in **Smt. Kamala Tiria Vrs. State of Orissa & others AIR 2001 Ori 67**. The contention of Mr. Samal, learned counsel is that the no confidence motion if takes place in absence of such compliance as per the Act since the proposed resolution to be passed during meeting on 4th November, 2024 has not been submitted and forwarded along with the requisition addressed to opposite party No.2, the entire exercise would be invalid.

4. The vote of confidence is fixed to 12th November, 2024.

5. Mr. Mohapatra, learned counsel for opposite party Nos.5 to 7, on the contrary, submits that the decision in **Smt. Kamala Tiria** (supra) is distinguishable, so far as the resolution dated 30th October, 2024 is concerned, inasmuch as, there is a decision in a special meeting held to initiate no confidence motion against the petitioner. It is further submitted by that not only the decision is unanimous but also, it was with an intention to proceed for no confidence motion



and hence, there is compliance of the provisions of the Act, hence, the impugned notice under Annexure-8 is not invalidated on any such plea as has been advanced by Mr. Samal, learned counsel for the petitioner.

6. Considering the plea of the petitioner and the facts pleaded on record and objection received, this Court is inclined to direct the State to obtain instructions and respond and Mr. Mohapatra, learned counsel for opposite party Nos.5 to 7 with a reply on record.

7. List this matter on 22nd November, 2024 for final orders.

8. Mr. Samal, learned counsel for the petitioner is directed to take notice to opposite party Nos.9 to 19 by Registered Post with A.D. and for the said purpose, he shall file requisites by tomorrow (12.11.2024) positively.

(R.K. Pattanaik)
Judge

I.A. No.14866 of 2024

03. 1. Mr. Samal, learned counsel for the petitioner submits that the I.A. has become infructuous.

2. With the above submission, I.A. stands disposed of.

(R.K. Pattanaik)
Judge

I.A. No. _____ of 2024

04. 1. Unregistered I.A. is filed by the petitioner seeking stay of the impugned notice as at Annexure-8 vis-à-vis no confidence motion initiated against him.



2. I.A. be registered forthwith.
3. Recorded the submission of learned counsels for the respective parties, objection of Mr. Mohapatra, learned counsel for opposite party Nos.5 to 7, Mr. Pradhan, learned ASC for the State and Mr. Das, learned counsel for opposite party No.8.
4. Awaiting reply and response from the respective opposite parties, as an interim measure, it is directed that the no confidence motion scheduled to be held on 12th November, 2024 shall be proceeded with but result of the same shall not be declared and published without the leave of the Court.
5. List on the date fixed.
6. Issue urgent certified copy as per rules in course of the day.

(R.K. Pattanaik)
Judge