



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.39518 of 2023

Rajkishor Sahu

....

Petitioner

Mr. Sukanta Kumar Dalai, Advocate along with
Mr. Janaki Kanta Mahapatra, Advocate

-versus-

State of Odisha & others

.... ***Opposite Parties***

Ms. Jyoshnamayee Sahoo, ASC

CORAM:
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

Order No.
13.

ORDER
18.11.2024

This matter is taken up through Hybrid Mode.

2. Mr. S.K. Dalai, learned counsel files his memo of appearance in Court today to plead on behalf of the petitioner. The same be kept on record.

3. Mr. S.K. Dalai, learned counsel appearing for the petitioner submitted that the Office order dated 22.11.2023 passed by the Collector, Kalahandi and the Disciplinary Authority in dismissing the petitioner, convicted by the learned Special Judge (Vigilance), Bhawanipatna in Vigilance P.S. Case No.26 dated 30.07.2017 under Sections 13(2) read with Section 13(1)(c)(d) of the Prevention of Corruption Act, 1988, invoking provisions of Article 311 of the Constitution of India is without jurisdiction. He submitted that the petitioner was Panchayat Executive Officer, Karlamunda Block, who falls within the control of Gram Panchayat as per Section 122(3) of the Odisha Grama Panchayat Act, 1964. He further submitted that said post cannot be held to be a civil post in view of



Full Bench decision of this Court in the case of ***Sri Adwait Chandra Jena v. Khandahata Grama Panchayat and others***, 1998 (II) OLR 410. Mr. Dalai, learned counsel for the petitioner expanding his argument, submitted that the said case was relating to Secretary of Gram Panchayat, now re-designated as Panchayat Executive Officer by virtue of amendment carried out in Odisha Grama Panchayat Act. The relevant amendment was subject-matter of challenge before this Court *vis-à-vis* Article 243G of the Constitution of India and a Division Bench of this Court in the case of ***Fakirmohan Das and others v. Government of Orissa and others***, 2008 (II) OLR 530, held that the amendment is contrary to the provisions of Article 243G of the Constitution of India. In view of that, further amendment has been carried out in the Odisha Grama Panchayat Act by virtue of Odisha Grama Panchayat (Amendment) Act, 2009 introducing sub-section (3) to Section 122 of the said Act.

4. Ms. Jyoshnamayee Sahoo, learned Additional Standing Counsel seeks accommodation to reply to the above contention of Mr. Dalai, learned counsel for the petitioner.

5. List this matter on 06.12.2024. Registry is instructed to indicate the name of Mr. Sukanta Kumar Dalai, learned counsel appearing on behalf of the petitioner along with M/s. Janaki Kanta Mahapatra, learned advocate and associates in the next cause list.

(M.S. Raman)
Judge