

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.41382 of 2023

Ratnakar Sethy

..... Petitioner
Mr. K.P. Mishra, Sr. Advocate

-versus-

State of Odisha and others

..... Opposite Parties
Mr. Nikhil Pratap, A.S.C.

CORAM:
JUSTICE A.K. MOHAPATRA

ORDER
20.12.2023

Order No.

W.P.(C) No.41382 of 2023
&
I.A. No.19929 of 2023

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode). सत्यमेव जयते
2. Heard Mr. K.P. Mishra, learned counsel appearing for the Petitioner as well as Mr. Nikhil Pratap, learned Additional Standing Counsel appearing for the State-Opposite Parties.
3. Mr. K.P. Mishra, learned Senior Counsel appearing for the Petitioner submitted that the Petitioner has been implicated as an accused in a vigilance case on the allegation of possessing assets disproportionate to his known sources of income. He further contended that in the aforesaid vigilance case, the investigation is going on and no charge sheet has been filed as of now. However, referring to the letter under Annexure-2 to the writ petition, learned

Senior Counsel appearing for the Petitioner submitted that a departmental proceeding has been initiated against the Petitioner basing on the allegation in the Cuttack Vigilance P.S. Case No.09 of 2022. At this juncture, Mr. Mishra, learned Senior Counsel appearing for the Petitioner submitted that when the investigation is still going on and charge sheet has not been filed, a departmental proceeding has been initiated against the Petitioner. He further contended that the documents pertaining to the allegation has also not been supplied to the Petitioner as of now so that the Petitioner can file his statement of defence. The Petitioner has been advised to verify the documents from the Cuttack Vigilance Office. In the aforesaid background, Mr. Mishra, learned Senior Counsel appearing for the Petitioner submitted that a departmental proceeding has been initiated against the Petitioner with a mala fide motive and the same is not supported by law. In course of his argument, learned Senior Counsel appearing for the Petitioner referring to the order dated 16.07.2018 passed by a coordinate Bench of this Court in W.P.(C) No.10660 of 2018, submitted that a coordinate Bench has deprecated the practice of vigilance authorities recommending the departmental authorities to initiate a departmental proceeding against the persons, who have been implicated in vigilance case.

4. Learned Additional Standing Counsel appearing for the State-Opposite Parties, on the other hand, contended that on the basis of the allegation in the vigilance proceeding, a departmental proceeding has been initiated against the Petitioner. He further contended that the Petitioner will be given an opportunity to file his written statement of defence as well as to examine witnesses in course of the departmental proceeding. Therefore, learned Additional Standing Counsel opposed

the prayer of the learned Senior Counsel appearing for the Petitioner on the aforesaid ground that the Petitioner will be given an opportunity to defend his case.

5. On a careful analysis of the submissions made by the learned counsel appearing for the respective parties, this Court is of the view that the matter requires further hearing and the State-Opposite Parties are required to file a reply, particularly keeping in view the fact that charge sheet has not yet been filed in the vigilance case.

6. Accordingly, learned Additional Standing Counsel appearing for the State-Opposite Parties is directed to obtain the instruction in the matter.

7. List this matter in the week commencing 22nd January, 2024.

8. As an interim measure, it is directed that further proceeding in disciplinary proceeding initiated against the Petitioner pursuant to Memo of Charge dated 04.11.2022 under Annexure-4 shall be kept in abeyance till the next date.

Urgent certified copy of this order be granted on proper application in course of the day.

(A.K. Mohapatra)
Judge