

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 4282 of 1999@@

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Notified Area Council Through ...Appellant (s)
Executive Officer

Versus

Bishnu C. Bhoi & Ors. ...Respondent(s)

With

CA 4283/99

(With office report)

Date : 17/07/2001 These petition(s)/appeal(s) was/were called
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE U.C. BANERJEE

For Appellant (s) Mr. P.N. Misra, Sr. Adv.
Mr. S. Misra, Adv.
Mr. Debasis Misra, Adv.

For Respondent (s) Mr. J.R.Das, Adv.
Mr. D.P. Mohanty, Adv.
Mr. K.K. Mahalik, Adv.

Mr.V.K.Monga, Adv.

Mr. C.S. Srinivasa Rao, Adv. (not present)

Mr. R.S. Jena, Adv. (not present)

UPON hearing counsel, the Court made the following
O R D E R

.....L.....I.....J

.SP2 Appeals are allowed in terms of the signed order.

.SP1

(J.S. Rawat)
Court Master

(D.D. Jindal)
Asstt. Registrar

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 4282 of 1999@@
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(C.A.No. 4283 of 1999)@@
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O R D E R~@@
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These two appeals by the Notified Area Council are directed against the judgment and order of the Orissa High Court dated 8.8.1997. By the impugned order the High Court has directed the State Government to pay the contractual amount to the 34 employees of the Notified Area Council in the Octroi Department and has further directed to sanction the posts and thereafter consider the question of regularisation. It transpires from the impugned judgment that the Notified Area Council though filed a counter-affidavit but indicated therein that there are no records available with them. The Court therefore called upon the State Counsel to produce the records and on production of the same, it perused the records and ultimately passed the orders in question.

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Though the Court had the opportunity of going through the records produced by the State Government but it has not noticed as to the manner in which these respondents were appointed by the Notified Area Council. It transpires that the affairs of the Notified Area Council were inspected by an Officer of the State Government and that Officer submitted a report on 29.11.1995. That report itself indicates how irregular and illegal the entire selection process was and how at the behest of the Chairman of the Notified Area Council the appointments had been made by the Executive Officer without even posts being sanctioned by the State Government in the Octroi Establishment. The report further indicates that the Chairman and the Executive Officer acted beyond their jurisdiction as regards selection of these respondents and further committed serious financial irregularities with the direct knowledge of the Executive Officer and at the instances of the Ex-Chairman and some Councillors. We really fail to understand that with this sort of a report from a Public

Officer on the record, the High Court could have brushed aside the same and issued the impugned direction in question.

Having applied our mind to the aforesaid inquiry report into the affairs of the concerned Notified Area Council, we
...3/-

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have no manner of doubt that the High Court exceeded its jurisdiction in issuing the impugned direction. In our view a mis-placed sympathy has been placed on the respondents-employees who appear to have been irregularly recruited without following the process of selection and even in the absence of any sanctioned posts. In that view of the matter, we have no other alternative than to quash the same. These appeals are accordingly allowed.

Notwithstanding our allowing the appeals, if the respondents are entitled to any arrears for the services already rendered the same may be paid.

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.....J@@
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(G.B. PATTANAİK)@@
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New Delhi,
July 17, 2001

.....J@@
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(U.C. BANERJEE)@@
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