

ITEM NO.3+4

COURT NO.6

SECTION XI-A

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

SPECIAL LEAVE PETITION (CIVIL) Diary No.33245/2018

(Arising out of impugned final judgment and order dated 20-04-2018 in MC No.247/2017, 20-04-2018 in MC No.427/2017 passed by the High Court Of Orissa At Cuttack)

STATE OF ODISHA & ANR.

Petitioner(s)

VERSUS

RATIKANTA TRIPATHY & ANR.

Respondent(s)

(FOR ADMISSION and I.R.; IA No.115772/2019 - FOR CONDONATION OF DELAY IN FILING; and, IA No.115773/2019 - FOR CONDONATION OF DELAY IN REFILING)

WITH

Diary No.33248/2018 (XI-A)

(FOR ADMISSION and I.R.; IA No.115458/2019 - FOR CONDONATION OF DELAY IN FILING; and, IA No.115459/2019 - FOR CONDONATION OF DELAY IN REFILING)

Diary No.33650/2018 (XI-A)

(FOR ADMISSION and I.R.; IA No.115656/2019 - FOR CONDONATION OF DELAY IN FILING; and, IA No.115658/2019 - FOR CONDONATION OF DELAY IN REFILING)

Diary No.39345/2018

Diary No.39309/2018 (XI-A)

Diary No.39347/2018 (XI-A)

Diary No.39352/2018 (XI-A)

Diary No.31098/2019 (XI-A)

(FOR ADMISSION and I.R.; and, IA No.154184/2019 - FOR CONDONATION OF DELAY IN FILING)

Diary No.33665/2019 (XI-A)

(FOR ADMISSION and I.R.; IA No.157439/2019 - FOR CONDONATION OF DELAY IN FILING; IA No.157441/2019 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 22-11-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. Ashok Parija, Sr. Adv. (Advocate General)
Mr. Rajdipa Behura, Adv.
Mr. Som Raj Choudhury, AOR
Mr. Arnav Behera, Adv.
Mr. Prashant Kumar, Adv.

For Respondent(s) Mr. Subhashish Mohanty, AOR

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

SLP (CIVIL) Diary No.33245/2018

Delay condoned.

Subject to the petitioner - State depositing a sum of Rs.50,000/- (Rupees fifty thousand only) in the Registry of this Court within four weeks from today, issue notice, returnable on 13.01.2020,

Dasti service, in addition, is permitted.

If the amount is not deposited within the stipulated time, the special leave petition shall stand dismissed without further reference to the Court.

Upon deposit, the amount shall be invested in a fixed deposit receipt with a nationalized bank initially for a period of 90 days with auto renewal facility.

Diary No.33248/2018; Diary No.33650/2018; Diary No.39345/2018; Diary No.39309/2018; Diary No.39347/2018; Diary No.39352/2018; Diary No.31098/2019; and Diary No.33665/2019.

Mr. Ashok Parija, learned Senior Counsel invited our attention to the judgment and order dated 16.09.2019 passed in Civil Appeal No.7295 of 2019 and all other connected matters. The issue involved in the matter was set out in para 1 of said judgment as under:

"1. The question involved in the appeals is whether the employees are entitled to claim grant-in-aid as admissible under the Orissa (Non-Government Colleges, Junior Colleges and Higher Secondary Schools) Grant-in-aid Order, 1994 (hereinafter referred to as the 'the order of 1994'), after its repeal in the year 2004 by virtue of provisions contained in Orissa (Non-Government Colleges, Junior Colleges and Higher Secondary Schools) Grant-in-aid Order, 2004 (hereinafter referred to as the 'the order of 2004'). The order of 2004 has also been repealed by Orissa (Aided Colleges, Aided Junior Colleges, and Higher Secondary Schools) Grant-in-aid Order, 2008."

The conclusion drawn by the Court as set out in para 31 was as under:

"31. It is apparent on consideration of Paragraph 4 of order of 2004 that only saving of the right is to receive the block grant and only in case grant in aid had been received on or before the repeal of the Order of 2004, it shall not be affected and the Order of 1994 shall continue only for that purpose and no other rights are saved. Thus, we approve the decision of the High Court in Lok Nath Behera (supra) on the aforesaid aspect for the aforesaid reasons mentioned by us."

Relying on the aforesaid observations, it is submitted that the only right that was saved was to receive the block grant and only in case the grant-in-aid was received on or before the repeal of the Order of 2004. It is further submitted that the decision of the High Court in *Loknath Behera* was approved by this Court. Exactly contrary situation has now been accepted by the High Court in the orders presently under appeal.

We must however state that the matters were disposed of by the High Court as the petition in every case was delayed by at least 800 days. In the circumstances, we pass following order:

a) Delay condoned.

Subject to the petitioner-State depositing a sum of Rs.50,000/- (Rupees fifty thousand only), to the account of every petition in the Registry of this Court within four weeks from today, let notices be issued to the respondents, returnable on 13.01-2020.

Dasti service, in addition, is permitted.

b) If the amount is not deposited within the stipulated time, the special leave petitions shall stand dismissed without further reference to the Court.

c) Upon deposit, the amount shall be invested in a fixed deposit receipt with a nationalized bank initially for a period of 90 days with auto renewal facility.

Mr. Subhasish Mohanty, learned Advocate-on-Record, who has appeared on behalf of Caveator/sole respondent in SLP (Civil) Diary No.31098 of 2019, accepts notice on behalf of sole respondent. He prays for and is granted three weeks' time to put in affidavit in reply.

Rejoinder, if any, be filed within two weeks' thereafter.

List all the matters on 13.01.2020.

(MUKESH NASA)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER