

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

CORAM:

THE HON'BLE MR. A. MUKHOPADHAYA, MEMBER (ADMN.)
THE HON'BLE MR. SWARUP KUMAR MISHRA, MEMBER(J)

O.A. No. 230/2018

Dr. Mazhar Ahmed Khan, Aged about 38 years, S/o Mozamil Ahmed Khan, Resident of HIG – 173, Kanana Vihar, Phase 1, P. O. Patia, Bhubaneswar – 31, District – Khurda, PIN – 751031.

..... Applicant

Through Legal practitioner :Mr. P. Varma, Counsel.

-Versus-

1. Union of India represented through its Secretary, Department of Atomic Energy, At. Anushakti Bhawan, C.S.M. Marg, Mumbai – 400 001.
2. National Institute of Science Education and Research (NISER), Bhubaneswar, through its Chairman, At./PO Jatni, Bhubaneswar, Dist – Khurda, Odisha – 752050.
3. The Director, National Institute of Science Education and Research (NISER), Bhubaneswar, At./PO Jatni, Bhubaneswar, Dist – Khurda, Odisha – 752050.
4. Dr. Biswajit Mihsra, Science Officer – D, National Institute of Science Education and Research (NISER), Bhubaneswar, At./PO Jatni, Bhubaneswar, Dist – Khurda, Odisha – 752050.

.....Respondents

Through Legal practitioner :Mr. A. C. Deo, Counsel
Mr. S. B. Jena, Counsel
Mr. S. Behera, Counsel

O.A. No. 449/2019

Ms. Sasmita Sahoo, aged about 32 years, D/o Raghunath Sahoo, At-Qrs no. 403, C-1, Block NISER Campus, Jatni, PS – Jatni, District – Khurda. At present working as operator (Gr. C), NISER under the Ministry of HRD, Govt. of India..

..... Applicant

Through Legal practitioner :Mr. S. Jena, Counsel.

-Versus-

1. Chairman Atomic Energy Commission/Chairman, BOG NISER, At- Anushakti Bhawan, Chatrapati Shivaji Mahraj Marg, Mumbai – 400001.
2. Director NISER Campus, At/Ps- Jatni, District Khurda, Pin – 752050.
3. Registrar, NISER Campus, At/Ps – Jatni, District Khurda, Pin - 752050

.....Respondents

Through Legal practitioner :Mr. A. Pradhan, Counsel

O.A. No. 446/2019

Mr. Subrat Ranjan Hota, aged about 28 years, S/o Bana Bihar Hota, At-Qrs no. 306, C-1, Block NISER Campus, Jatni, PS – Jatni, District – Khurda. At present working as operator (Gr. C), NISER under the Ministry of HRD, Govt. of India.

..... Applicant

Through Legal practitioner :Mr. S. Jena, Counsel.
Mr. S. Mohanty, counsel.

-Versus-

1. Chairman Atomic Energy Commission/Chairman, BOG NISER, At- Anushakti Bhawan, Chatrapati Shivaji Mahraj Marg, Mumbai – 400001.
2. Director NISER Campus, At/Ps- Jatni, District Khurda, Pin – 752050.
3. Registrar, NISER Campus, At/Ps – Jatni, District Khurda, Pin - 752050

.....Respondents

Through Legal practitioner :Mr. M. R. Mohanty, Counsel

O.A. No. 448/2019

Mr. Tusar Kanta Sahoo, aged about 33 years, S/o Surendra Kumar Sahoo, At-Qrs no. 403, C-1, Block NISER Campus, Jatni, PS – Jatni, District – Khurda. At present working as operator (Gr. C), NISER under the Ministry of HRD, Govt. of India.

..... Applicant

Through Legal practitioner :Mr. S. Jena, Counsel.

-Versus-

1. Chairman Atomic Energy Commission/Chairman, BOG NISER, At- Anushakti Bhawan, Chatrapati Sivaji Mahraj Marg, Mumbai – 400001.
2. Director NISER Campus, At/Ps- Jatni, District Khurda, Pin – 752050.
3. Registrar, NISER Campus, At/Ps – Jatni, District Khurda, Pin - 752050

.....Respondents

Through Legal practitioner :Mr. B. R. Mohapatra, Counsel

O.A. No. 447/2019

Mr. Jogendra Jena, aged about 34 years, S/o Late Sanatan Jena, At – Deuli, PO- Binayakpur, P.S. – Pipli, District – Puri. At present working as operator (Gr. C), NISER under the Ministry of HRD, Govt. of India.

..... Applicant

Through Legal practitioner :Mr. S. Jena, Counsel.

-Versus-

1. Chairman Atomic Energy Commission/Chairman, BOG NISER, At- Anushakti Bhawan, Chatrapati Sivaji Mahraj Marg, Mumbai – 400001.
2. Director NISER Campus, At/Ps- Jatni, District Khurda, Pin – 752050.
3. Registrar, NISER Campus, At/Ps – Jatni, District Khurda, Pin - 752050

.....Respondents

Through Legal practitioner :Mr. S. Behera, Counsel

O.A. No. 98/2019

1. Mr. Nabin Kumar Sahoo, aged about 41 years, S/o Prafulla Kumar Sahoo, Plot No. E/208, Sector – 7, CDA, Cuttack.
2. Mr. Sujit Kumar Basatia, aged about 36 years, S/o Jaitndra Nath Bastia, At- Niser, PO- Vimpur – Padanpur Jatni Dist – Khurda.
3. Ranjan Kumar Das, about 42 years, S/o Abhaya Charan Das, At/Po- Bodhapur, Dist – Cuttack.

4. Mr. Madhusudan Padhy, aged about 46 years, S/o Raghunath Padhy, At – Plot No. 299 (B), Nayapalli, Bhubaneswar, Dist – Khurda.

..... Applicant

Through Legal practitioner : Mr. S. Mohanty, counsel.

-Versus-

1. Union of India represented through it's the Secretary, Department of Atomic Energy, At- Anushakti Bhawan, CSM Marg, Mumbai – 400001.
2. The Registrar, National Institute of Science Education and Research, At/Ps – Jatni, District Khurda, Pin - 752050
3. The Director National Institute of Science Education and Research, At/Ps- Jatni, District Khurda, Pin – 752050.

.....Respondents

Through Legal practitioner :Mr. G. R. Verma, Counsel
Mr. K. M. H. Niamati, Counsel

Reserved on: 05/04/2021

Pronounced on:06/04/2021

Per Mr. Swarup Kumar Mishra, J. M.

In these cases the primary question for consideration regarding maintainability on jurisdiction of Tribunal on NISER are the primary point to be decided, with the consent of the parties all these matters were heard analogously and this common order is passed which will govern all these OAs.

2. For the sake of convenience the facts/issues raised in the OA No. 230/2018 are that the applicant has filed this OA under section 19 of the Administrative Tribunal Act 1985 seeking to quash the selection of respondent no. 4 under Annexure A/4 as Scientific Officer – D (medical Practitioner) made in pursuance of Advt No. Estt-Rct./NA/04-2015 made in the establishment of National Institute of Science Education and Research (NISER), Bhubaneswar with other consequential relief.

3. In pursuance of notice issued by this Bench, MA No. 151/2020 has been filed stating therein that NISER is a Society registered under Societies Act. The Board of Governor is the authority for administration and management of NISER and Respondent No. 1 i.e. Secretary Department of Atomic Energy, is

no way connected with the selection/recruitment of any post in the establishment of NISER, therefore Respondent No. 1 is neither a necessary or proper party and Respondent No. 1 may be deleted from the *lis*. NISER has also filed counter as also MA raising objection for maintainability of OA before the Tribunal in absence of any specific notification bringing the NISER within the jurisdiction of Tribunal.

4. We have heard learned counsel for both the sides and perused the records vis a vis the relevant portion of AT act 1985 as also the order of Hon'ble High Court of Orissa dated 07.04.2017 in WP (C) No. 1599/2017 filed by one Dr. Mazhar Ahmed Khan vrs Director, NISER.

5. Since the very maintainability of this OA is in question, learned counsel for both sides were advised to argue on the point of maintainability. Learned counsel for the applicant by drawing our attention to the order of Hon'ble High Court of Orissa dated 07.04.2017 in WP (C) No. 1599/2017 filed by Dr. Mazhar Ahmed Khan vrs Director, NISER submitted that since the Writ Petition was withdrawn with liberty to approach before the Tribunal, therefore this Tribunal has jurisdiction to decide the matter on merit. On the other hand learned counsel for the respondents by drawing our attention to the relevant portion of AT act had submitted that the NISER being an autonomous body registered under Society Registration Act 1860 and which having not specifically been notified to be amenable before the Tribunal, the service matters relating to NISER is not maintainable before the Tribunal. He further submitted that the order of Hon'ble High Court referred to by the learned counsel for the applicant cannot have any bearing since on the specific request of the counsel appearing in the said case, the writ petition was disposed of as withdrawn with liberty to approach the appropriate forum ventilating his grievance in accordance with law. Further learned counsel for the respondents has cited the order dated 25.07.2013 passed by this Bench in OA No. 486 of 2013.

6. Despite due opportunity to produce any notification of Govt. of India bringing the NISER within the purview of the Tribunal, the learned counsel for the applicant has not been able to produce any such notification.

7. We have perused the order dated 25.07.2013 of this Bench in OA No. 486/2013 which was disposed of as withdrawn because NISER does not come under the jurisdiction of Tribunal. It is also seen that the writ petition filed before Hon'ble High Court was disposed of as withdrawn with liberty to

approach the appropriate forum ventilating his grievance in accordance with law and not specifically before the Tribunal. It is a fact that there is no specific notification made by Govt. of India bringing NISER under the jurisdiction of the Tribunal.

8. For the discussion made above, the OA is dismissed being not maintainable on jurisdiction before the Tribunal. No order as to cost.

9. In view of the above since in all those cases are of department of NISER and as held above NISER is not coming within the jurisdiction of Tribunal, we do not feel to discuss the fact of the cases and hold that all these cases are hereby dismissed being not maintainable on jurisdiction before this Tribunal. No order as to cost.

10. All the MA's in all the OAs are accordingly disposed of.

(S. K. MISHRA)
Member (Judl.)

(A. MUKHOPADHAYA)
Member (Admn.)

CS/CM