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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

OA No.718 of 2010
Cuttack, this the 22nd November, 2010

Niranjan Sethi Applicant
Versus
Union of India & Others Respondents
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THE HON'BLE MR. C.R. MOHAPATRA, ADMN. MEMBER
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Grievance of the Applicant, in nut shell, in this Original Application filed u/s.19 of the A.T. Act, 1985 is that he is a direct recruit non State Civil Service Officer of the State of Orissa. He was recruited to the Orissa Information Service Class II Officer in which service he joined on 28.10.1988. Thereafter, during 2001, he was promoted to Class I Service. In order to fill up two IAS vacancies (out of Non-State Civil Service Officers' cadre of the State of Orissa) for the year 2010 in terms of "Indian Administrative Service (Appointment by Selection) Regulations, 1997", State of Orissa invited nomination of the officers from different Departments.

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Since Applicant is working as Deputy Director –Cum- Deputy Secretary in the Information & Public Relation Department of the Government of Orissa [with reference to the GA Department DO Letter No. 14176/AIS dated 17-07-2010, the I&PR Department, after getting vigilance clearance vide letter No.7730/VCo (B) dated 19-08-2010 of the GA (Vigilance) Department, Cuttack nominated the name of the Applicant to the GA Department for consideration. According to the Applicant, after scrutiny of the applications received from various Departments, GA Department vide letter No.AIS/1/2009-17635 dated 09-09-2010 sent 10(ten) names including his name to the UPSC. Selection Committee was constituted to hold the selection on 09-11-2010 for which vide GA Department DO letter No. 20908/AIS-I/31/2009(Pt) dated 06-11-2010 9(nine) Officers were asked to appear before the Selection Commission excluding the Applicant. It is the positive case of the Applicant that there is no Disciplinary, Criminal or Vigilance case pending against him. Because of the constant outstanding grading in his ACRs/CCRs his name was nominated by the Department. He belongs to

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SC community. It is the further case of the Applicant that despite pendency of vigilance case against one of the officers, as would be evident from the letter No.7730/VCo(B) dated 19.8.2010 of the GA (Vigilance Department, Cuttack, he was considered but the applicant was not called upon to appear before the selection Committee. Next contention of the Applicant is that since calling of the candidates was not in accordance with the provision of 4(iii) of the "Indian Administrative Service (Appointment by Selection) Regulations, 1997" the selection committee meeting held on 09-11-2010 is not sustainable. In the aforesaid premises by filing representation dated 15-11-2010 he sought removal of injustice caused to him in the decision making process but he apprehends that before taking any decision on his representation, the Respondents may go ahead for filling up of the posts in question. Hence by filing the present OA he seeks to declare the Selection Committee Meeting held on 9th November, 2010 for appointment to IAS as per Regulation Indian Administrative Service (Appointment by Selection) Regulations, 1997 as illegal, arbitrary and *ab*

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initio void and to conduct the Selection afresh and/or to direct the Respondents to consider the case of the Applicant for appointment to IAS.

2. Mr.A.K.Bose, Learned Government Advocate for the State of Orissa, Mr. S.Mishra, Learned ASC appearing for Union of India and Mr.D.K.Behera, Learned Additional Standing Counsel for UPSC having received copies of the OA in advance for the Respondents are present. Heard Learned Counsel for both sides and perused the materials placed on record. At the outset it is submitted by Mr.G.Rath, Learned Counsel for the Applicant that as there was gross violation of the provision of the regulation and consideration being a constitutional right of an employee which has been infringed by this process, the authority being vested with the power to remove the injustice, he will be satisfied if direction is issued to the Respondent No. 2 to consider and dispose the representation of the Applicant within a stipulated period and until consideration is given to the grievance of Application direction be issued to the Respondents not to proceed with the matter of selecting and filling up of the

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posts, in question, in order to avoid multiplicity of litigation. Mr. Behera, Learned ASC appearing of the Respondent No.2 submitted that he has no objection to disposing of the OA with such direction but in that event at least four weeks time may be allowed for disposal of the representation of the Applicant under Annexure-A/2. Considering the submission of Learned Counsel for both sides, without expressing any opinion on the merit of the matter, this OA is disposed of at this admission stage with direction to the Respondents; especially Respondent N.2 to consider the points raised by the Applicant in his representation and as noted above with reference to the records and relevant rules and communicate the decision taken thereon with a reasoned order to the Applicant at an early date and till then the Respondents are hereby directed not to finalize selection for filling up of the posts for which Selection Committee Meeting, according to the Applicant, was held on 09-11-2010.

3. Send copies of this order along with OA to the Respondents at the cost of the Applicant for which Learned Senior Counsel appearing for the Applicant
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undertakes to furnish the postal requisite by 23/11/2010.

Free copies of this order be given to Learned Counsel for
both sides.


(C.R. MOHAPATRA)
MEMBER (ADMN.)

