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O.A.No. 189 of 2011
Amarendra Ku. Nayak Applicant
Versus
Union of India & Others. Respondents.

Order dated: 01-04-2011.

CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)
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THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

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Notice No. 2003/DBW Court Case/LB/OFBL dated 26-03-

2011 issued by the HOS/Labour Bureau, Ordnance Factory, Badmal, Bolangir (Respondent No.3) directing the Applicant to submit his residential certificate and mark sheet within a period of 2 days for onward transmission to the Respondent No.4 in connection with court case has been challenged by the Applicant in this Original Application filed U/s.19 of the A.T. Act, 1985 seeking to quash the notice dated 26.03.2011 in Annexure-A/4 and to direct the Respondents 2&3 not to act on the advice/notice of the Respondent No.4.

2. In support of the above prayer, it was contended by Learned Counsel for the Applicant that two days for submission of the documents is inadequate and, therefore, the threat given to start departmental action, in the event of failure to submit the documents shows the ulterior motive of the authorities behind the issuance of such notice, after lapse of nearly 12 years of

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continuance in the post of DBW. Besides the above, it was contended by Learned Counsel for the Applicant that Respondent No.4 has no authority, competence and jurisdiction to issue such notice based on which Annexure-A/4 has been issued to the Applicant at this belated stage.

3. Mr. S. Mishra, Learned ASC for the Union of India, appearing on notice for the Respondents vehemently objected to the maintainability of this OA. It was submitted, on instruction from the Department, by Mr. Mishra, Learned ASC that notice under Annexure-A/4 was issued not to the Applicant in isolation but also to many such similarly situated DWB working under the Respondents. According to him, Respondent No.4 issued such notice pursuant to the order of the Hon'ble High Court of Orissa and based on such notice, Respondent No.3 directed the applicant to submit the residential certificate and mark sheet. Further, it was fairly submitted by Mr. Mishra, Learned ASC that the Department has not contemplated any action against the Applicant.

4. We have considered the submission of the Learned Counsel for both sides and perused the materials placed on record. As it appears, from record since the notice under Annexure-A/4 was issued by Respondent No.3 pursuant to the notice of the Sub

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Collector, Respondent No.4, which was also based on the order of the Hon'ble High Court of Orissa in OJC No. 15454 of 1997 dated 11th August, 1998 - **Deepak Panda and others v State of Orissa and others**, **prima facie**, we do not see any merit to entertain this OA at this stage.

5. However, it was submitted by Mr. Ojha, Learned Counsel appearing for the Applicant that at least direction may be issued to the Respondents to allow the applicant 15 days time to submit the required the residential certificates as it is not feasible to obtain the certificate from the concerned Tahsildar within two days. Mr. ^{Mishra} ~~at~~ Learned ^ASC, fairly submitted that extension of time will be considered by the concerned authority provided the applicant approaches the same authority who has issued the notice or called for the documents.

6. In view of the above, without expressing any opinion on the merit of the matter, while dismissing this OA being premature, liberty is granted to the Applicant to submit representation to the Respondent No.3 requesting grant of fifteen days more time to submit the documents required under Annexure-A/4 within three days and the Respondent No.3 is hereby directed that on receipt of such request from the applicant

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he should do well in granting the applicant fifteen days more time to submit the documents required under Annexure-A/4.

7. Send copy of this order along with OA to the Respondent Nos.3 & 4 for record.


(A.K.PATNAIK)
Member(Judicial)


(C.R.MOHAPATRA)
Member (Admn.)