

IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) No. 3750 of 2014

In the matter of:

1. Sriyarani Dei aged about 33 years, D/o: Sri Sadasiba Behera At/Po: Kakatpur, P.S: Kakatpur, Dist: Puri
...Petitioner

Versus

1. State of Odisha, represented by the Commissioner-cum-secretary, School and Mass Communication Department, At-Secretariat Building, Bhubaneswar, Dist: Khurda.
2. The Director, Orissa Primary Education Programme Authority (OPEPA), Sikhyn Soudha, Bhubaneswar, Dist: Khurda.
3. The Collector-cum-Secretary, Zilla Parishada, Puri, Dist:Puri.
4. The District Project Coordinator, At/PO:Puri, Dist:Puri.

... Opposite Parties

W.P. (C) No. 8178, 3750 & 6170 of 2014

AND

W.P. (C) No. 5314, 5315 & 5316 of 2015

Dated: 04.05.2015

Order

Since common questions of law involve in the writ petitions, the same are taken up for analogous hearing.

Heard learned counsel for the petitioners and S. Das, learned Senior Standing Counsel for the School & Mass Education Department.

W.P. (C) Nos. 8178, 6170 & 3750 of 2014 has been filed by three physically challenged persons for the appointment as Sikhya Sahayaks under PH category in the district of Puri.

The petitioner in W.P. (C) No. 8178 of 2014 has brought to my notice the order passed by the State Commissioner for Person and Disabilities on 04.04.2012 which is quoted below: -

“Both the complainant and respondent were present. The court heard both the sides. The respondent agreed all the contentions of the complainant. Therefore, the court directs the DPC to take steps to appoint Biranchinarayan Mishra as Sikhya Sahayak within 15 days of receipt of this order and submit action taken report accordingly.”

The petitioner in W.P. (C) No. 6170 of 2014 has brought to my notice the order passed by the State Commissioner for Person with Disabilities on 13.9.2012 relevant portion of which is quoted below:-

“It is apparent that both the Collector and DPC, SSA, Puri have not only failed to comply the orders of the Court but also violated the norms of official decorum and respect for the aims and objectives of the PWD Act 1995. It is high time that the Collector, Puri needs be called upon as a final chance to appoint Biswabhusana Raiguru as Sikhya Sahayak within 15th September, 2012 and inform the action-taken-report by fax during the course of the day on 15.9.2012 failing which the Court of SCPD would be constrained to place the matter with appropriate recommendation before the Chief Secretary, Government of Odisha.”

In W.P. (C) No. 3750 of 2014 the petitioner has produced the order dated 6.7.2012 passed by the State Commissioner for Person with Disabilities, relevant portion of which is quoted below:-

“It is, therefore, directed that Sriyarani Dei must be given appointment without further delay and action-taken-report be submitted so as to reach to the Court of SCPD by 25.7.2012. Court of SCPD further directs that backlog vacancies from the period from 2001-2006 and selection criteria specifying cut-off marks etc. fixed for all reserved and unreserved categories supported with documents be furnished along with the aforesaid action-taken-report by 25.7.2012.”

It may be made clear that on concession of the District Project Coordinator, Puri, the impugned order directing appointment of all the petitioners were passed. No effort has been made by the State to re-call the orders passed by the Commissioner.

The present writ petitions have been filed to implement the aforesaid orders of the State Commissioner.

After all these orders were passed by the SCPD, no effort was made by the DPC, Puri to assail the said order till 23.03.2015 and the said orders of the SCPD have now been challenged in W.P. (C) Nos. 5314 & 5316 of 2015 by the School & Mass Education Department.

Mr. S. Das, learned Senior Standing Counsel submits that the petitioners are seeking appointment to the posts of Sikhya Sahayaks as per the advertisement of the year 2006 and the select list made pursuant to the advertisement has lost its force due to efflux of one year and there is no vacancy available for engaging the petitioner as Sikhya Sahayak.

The petitioners have obtained information under the RTI Act to the effect that there are eight vacancies available for Physical Handicapped category in the district of Puri.

These three writ petitions have been filed by the State Government after the District Project Coordination, Puri appeared in this Court and assured the Court that she would implement the orders passed by the SCPD and that no explanation is available as to why such orders were not challenged earlier in this Court or step was not taken for recalling of the orders passed by the SCPD.

In my considered view, since the statutory authorities have passed the orders on the concession given the then District Project Coordinator and no effort has been made by the State to re-call those orders, I direct the Collector-cum-CEO, SSA, Puri to implement the orders passed by the State Commissioner within one month from the date of receipt of this order, failing which it will be construed to be an act of contempt of this Court. The writ petitions being W.P (C) No. 8178, 3750 & 6172 of 2014 are disposed of accordingly.

Consequently, the writ petitions being W.P. (C) Nos. 5314, 5315 & 5316 of 2015 filed by the State are dismissed being devoid of merit.

Issue urgent certified copy.

Let a free copy of this order be supplied to the learned counsel for the School & Mass Education Department for compliance.

Sd/- B.P. Ray, Judge

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