

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29200 of 2023

Debabrata Behera

.... **Petitioner**
Mr. A.K.Biswal, Advocate

-versus-

State of Odisha & others

.... **Opposite Parties**
Mr. A.P.Das, A.S.C..

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

05.09.2023

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel appearing for the petitioner as well as learned Additional Standing Counsel for the State. Perused the Writ Petition as well as the documents annexed thereto.
3. The Petitioner has filed the present Writ Petition with the following prayer :

“ It is, therefore, prayed that in the interest of justice, this Hon’ble Court may graciously be pleased to admit this writ petition, issue Rule Nisi, calling upon the Opp.Parties to show cause as to why the Office Order dated 08.08.2023 issued by the Opp.Party No.2(Annexure-4) to terminate the services of the Petitioner shall not be quashed declaring the same as illegal and arbitrary;

And as to why the Opp.Parties shall not be directed to allow the Petitioner to perform his duties as Subject Mater Specialist (SMS) (M&E, GIS/MIS, REDD+) under OFSDP, Phase-II;

And if the Opp.Parties failed to show cause or show insufficient/irrelevant cause than make the said Rule Nisi

absolute;

And

Pass any other order/s, direction/s as may deem fit and proper in the facts and circumstances of the case,”

4. It is submitted by the learned counsel for the Petitioner that the Petitioner has been engaged on contractual basis pursuant to an agreement executed on 19.05.2021 by the Divisional Forest Officer-cum-District Management Unit Chief, Baripada Forest Division. It is further contended by the learned counsel for the Petitioner that such agreement is being renewed from time to time. The present agreement under which the Petitioner is working is valid till 18.05.2022. Learned counsel for the Petitioner further contended that while working as such, the Petitioner is implicated in a criminal proceeding lodged against him by his wife, as a result of which the Opposite Parties invoking Clause 1(iv) of the agreement have issued one month termination notice dated 08.08.2023 under Annexure-4 to the Writ Petition as a result of which the service of the Petitioner has been terminated with effect from 08.09.2023. Being aggrieved by such notice under Annexure-4, the Petitioner has approached this Court by filing the present Writ Petition.

5. In course of his argument learned counsel for the Petitioner by drawing the attention of this Court to Clause 1(iv) of the Agreement submitted that no doubt the authorities have the power to terminate the contract by giving one month notice. The same is subject to the condition that the performance of the Petitioner being found satisfactory by the 1st party. In the light of the aforesaid provision, learned counsel for the Petitioner submitted that in the Notice dated 08.08.2023 the Opposite Parties have not specifically held that the performance of the Petitioner was not satisfactory. Accordingly, he further submitted that issuance of such notice is not in consonance with the terms and

conditions of the agreement executed by the Petitioner with the DFO cum DMU Chief, Baripada. The Petitioner has filed his show cause on 22.08.2023 before Opposite Party no.2, however the same is stated to be pending before the Opposite Party no.2 and no final decision has been taken as of now.

6. Learned additional Standing Counsel on the other hand submitted that the Notice under Annexure-4 has been issued strictly in terms of the agreement executed by the Petitioner. He further submitted that the Petitioner is conscious that the agreement can be terminated at any time according to the provision of the agreement. In such view of the matter, learned Additional Standing Counsel submitted that the Writ Petition is devoid of merit and the same be dismissed. He further submitted that in the event this Court directs the Opposite Party No.2 to dispose of the show cause reply submitted by the Petitioner in accordance with law, he has no objection to the same.

7. Considering the submissions made by the learned counsel for the respective parties, on careful examination of the background facts of the present case as well as keeping in view the aforesaid analysis, this Court deems it proper to dispose of the Writ Petition at the stage of admission by directing the Opposite Party No.2 to consider the show cause reply submitted by the Petitioner strictly in accordance with law within a period of four weeks from the date of production of certified copy of this order by the Petitioner, after providing an opportunity of hearing to the Petitioner, if so desired. The final order to be passed by Opposite Party no.2 be communicated to the Petitioner within a week thereafter.

8. As an interim, it is directed that the notice under Annexure-4 shall not be given effect to till a final decision is taken on the show cause reply of the Petitioner or for a period of four weeks, whichever is earlier.

9. With the aforesaid observation/direction the Writ Petition stands disposed of.
10. Issue urgent certified copy of this order in course of the day.

(A.K. Mohapatra)
Judge

RKS

