

[O. H. C.-97-A]




In the High Court of Orissa
ORDER SHEET

BLAPL/W. P. (C) No. CONTC No. 9525/2023 of 20

NARMADA DAS & Ans. Petitioners

Versus
SHALINI PANDIT, I.A.S. & Ans.

Opposite-Parties

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
 FC156678 SCANNED			<p>PRESENTED ON 01/12/2023</p> <p> for SUPERINTENDENT COMPUTER FILING SECTION</p> <p>D.R. not made for Admission.</p> <p><u>Pauntit Arun</u> <u>12/12/2023</u> </p>

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.9525 of 2023

Narmada Das & others

....

Petitioners

Mr.S.P.Nath, Advocate

-versus-

Shalini Pandit, I.A.S. & another

....

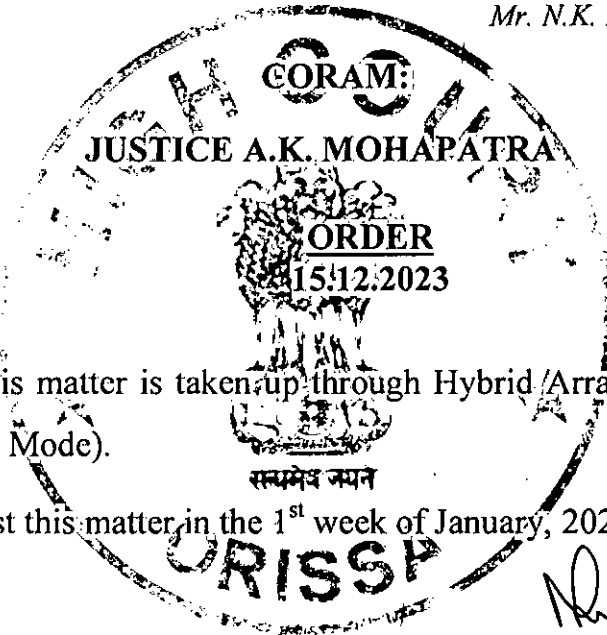
*Opposite
Parties/Contemnors*

Mr. N.K. Praharaj, A.G.A.

Order No.

01.

1. This matter is taken up through Hybrid /Arrangement (Virtual /Physical Mode).
2. List this matter in the 1st week of January, 2024.



(A.K. Mohapatra)
Judge

Anil

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.9525 of 2023

Narmada Das & others

.... ***Petitioners***
Mr. L.K.Mohanty, Advocate

-versus-

Shalini Pandit, IAS & another

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

25.01.2024

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. List this matter on 02.02.2024.


..... (A.K Mohapatra)
Judge

Rubi

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No. 9525 of 2023

Narmada Das and others

Petitioners
Mr. Budhadev Routray,
Sr. Advocate
along with
Mr. S.P. Nath, Advocate

-versus-

Shalini Pandit, IAS,
Commissioner-cum-Secretary,
Department of Health & Family
Welfare, Government of
Odisha, Rajiv Bhawan,
Bhubaneswar and another.


Opposite Parties/
Contemnors
Mr. A.P. Das, Advocate

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
09.02.2024

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. On the prayer of the learned counsel for the Contemnors, he is granted two weeks time to file compliance affidavit.
3. . List this case on 23rd February, 2024.


(A.K. Mohapatra)
Judge

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.9525 of 2023

Narmada Das & others

....

Petitioners

Mr. S.P. Nath, Advocate

-versus-

Shalini Pandit, I.A.S. & another

....

Contemnors

Mr. N.K. Praharaj, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.02.2024

Order No.

04.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Learned counsel for the petitioner that the order passed by learned Single Judge Bench on 07.11.2023, has already been confirmed in writ appeal bearing W.A. No.9 of 2024 vide order dated 01.02.2024. However, the Contemnors have not taken any steps to comply with the order passed on 17.11.2023.
3. Learned counsel for the Contemnors submitted that after disposal of the writ appeal he has no further instruction. However, he prayed for two weeks time to his compliance affidavit.
4. List this matter on 07.03.2024 along with CONTC Nos.1077 & 1079 of 2024.



(A.K. Mohapatra)

Judge

Anil

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.9525 of 2023

Narmada Das and others

....

Petitioners

Mr. S.P.Nath, Advocate

-versus-

Shalini Pandit, IAS and another

....

Opposite

Parties/Contemnors


Mr. N.K.Praharaj, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

Order No.

05. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Learned counsel appearing for the Contemnors stated before this Court that after dismissal of the Writ Appeal steps have been taken to implement the order passed by this Court.
3. Accordingly, the contemnors shall granted one week time to implement the order.
4. In such view of the matter, list this matter 15.03.2024.


(A.K. Mohapatra)
Judge

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.9525 of 2023

Narmada Das and others

Petitioner

Mr. S.P. Nath, Advocate

-versus-

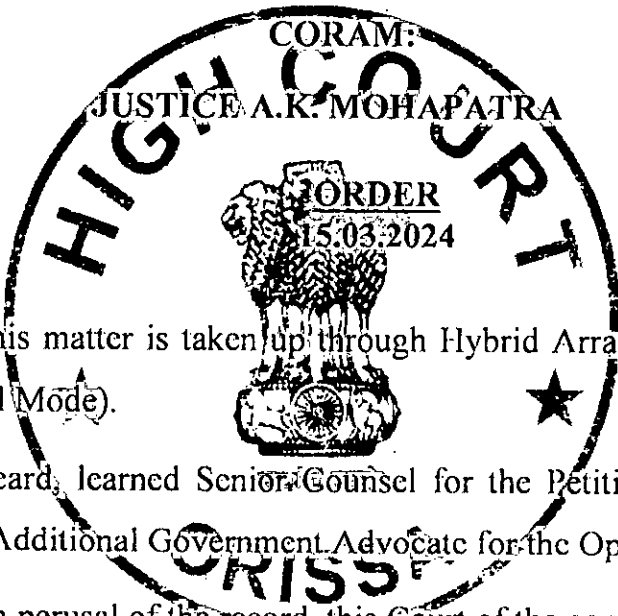
Shalini Pandit, I.A.S. and another

*Opposite
Parties/Contemnors*

Mr. Saswat Das, AGA

Order No.

06.

- 
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard, learned Senior Counsel for the Petitioners as well as learned Additional Government Advocate for the Opposite Parties.
 3. On perusal of the record, this Court of the considered view that the order passed by the authorities prima facie contemptuous.
 4. However, the prayer of learned Additional Government Advocate is granted one week's time to take instruction in the matter.
 5. Accordingly, list this matter on next Friday (22.03.2024).


(A.K. Mohapatra)
Judge

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC-9525 of 2023

Narmada Das and others

Petitioners
Mr. Mr. B. Routray, Sr. Advocate

-versus-

Shalini Pandit, IAS & another

Contemnors
Mr. Saswat Das, AGA

CORAM:

JUSTICE A.K. MOHAPATRA

Order No.

ORDER

06.04.2024

07. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard Mr. B. Routray, learned senior counsel and Mr. P. K. Rath, learned senior counsel appearing for the Petitioners in their respective cases. Mr. Saswat Das, learned counsel appearing for the Contemnors.
3. After hearing learned counsel for the parties and on perusal of the record as well as the compliance Affidavit filed by Contemnors, this Court is of the considered view that the decision taken by the Opposite Parties are not in consonance with the order passed by this Court in the Writ Petition, which was eventually confirmed by the Division Bench of this Court.
4. In such view of the matter, the compliance Affidavit is hereby rejected. However, on the request of the learned counsel appearing for the Contemnors, he is given two weeks time to file a fresh



compliance affidavit.

5. List this matter on 26th April, 2024.
6. A free copy of this order be handed over to Mr.Das, learned Additional Government Advocate for communication.

RKS


(A.K. Mohapatra)
Judge





IN THE HIGH COURT OF ORISSA AT CUTTACK
CONTC No.9525 of 2023

1) *Narmada Das*
2) Lili Swain
3) Mamata Swain
4) Sumitra Swain
5) Rajashree Pradhan

.....

Petitioners

Represented By Adv. -
M/s Satya Prakash Nath

-versus-

1) *Shalini Pandit, I.a.s.*
2) Bishnu Prasad Mishra, oas, secy., odisha
Sub Ordinate Staff Selection
Commission, bbsr

.....

Opposite Parties

Represented By Adv.
- S.Das, AGA

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

26.04.2024

Order No.

08.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. List this matter on 09.05.2024 as stated by learned counsel for the Contemnors that the State-Opposite Parties have preferred a writ appeal on 06.04.2024 passed in this contempt application.
3. It is stated by learned Senior Counsel for the Petitioners that the present writ appeal is not maintainable in law.
4. In any event, the State-Opposite Parties have already preferred a writ appeal, ten days time allowed to get the matter be listed before the appropriate bench.
5. List this matter on 17.05.2024 for further hearing.

(A.K. Mohapatra)
Judge

Anil

IN THE HIGH COURT OF ORISSA

Case No. CONTC 9525/2023

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
01	15/12/2023	For Admission. Ranjit Sen 04/01/2024 Adj. to 1 st week of Jan, 2024 S.T.
02	25/01/24	For Admission. Ranjit Sen 01/02/2024 Adj. to 02/02/2024 S.T.
03	09/02/24	For Admission i) compliance Affidavit not received. ii) copy of W.A No.09/2024 is kept on record. Ranjit Sen 16/02/24 Adj. to 23/02/24 S.T.

16/2/24

IN THE HIGH COURT OF ORISSA

Case No. CONTC-9525/2023

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
4.	23.2.2024	<p><u>For Admission</u></p> <p>i) compliance Affidavit not received.</p> <p>With CONTC-1077/24 1079/2024 } Pending case with separate notes</p> <p>Monalisha Rout 21.3.2024</p> <p>Adj. to 7.3.2024</p> <p><i>[Signature]</i></p>
05	07/03/2024	<p><u>For Admission</u></p> <p>i) compliance Affidavit not received.</p> <p>- With - CONTC 1077/2024 } Pending case CONTC 1079/2024 }</p> <p>Sanjit Sen 14/03/2024</p> <p>Adj. to 15/03/2024</p> <p><i>[Signature]</i></p>

IN THE HIGH COURT OF ORISSA

Case No. CONTC 9525/2023

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
06	15/03/2024	<p><u>For Admission</u></p> <p>i) Compliance Affidavit not received.</p> <p>- With - CONTC 1077/24 CONTC 1079/24 } (pending call) S.J.</p> <p>Sanjit Sethi 21/03/24</p> <p><u>Adj. to 22/03/2024</u></p>
07	06/04/24	<p><u>For Admission</u></p> <p>i) in view of order no. 07, dtd. 06/04/24 Compliance Affidavit not received.</p> <p>- With - CONTC 1077/24 CONTC 1079/24 CONTC 1739/24 } (pending call)</p> <p>Sanjit Sethi 19/04/24</p> <p><u>Adj. to 26/04/24</u></p> <p>19/4/24</p> <p>S.J.</p>

16/4/24 11:55 AM
S.J.

C-2(C)

Seat No. 1

IN THE HIGH COURT OF ORISSA

Case No. CONTC ~~9525/23~~ 9525/23

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
08	26/04/24	<p><u>For Admission</u></p> <p>i). in view of order no. 08, dated 26/04/24 Fresh compliance Affidavit not received.</p> <p>Ranjit Cetti 03/05/24 07/05/24 Adj. to 17/05/24 (Chart Fee) ST 37/11/24</p>

High Court of Orissa
Acknowledgement



CNR : ODH0010972482023

Filing No. : CONTC/9525/2023

Petitioner : NARMADA DAS

Petitioners Advocate : ADV.

Amount : 0.00

Date of Filing : 01-12-2023

Time of Filing : 16:40:44

Respondent : SHALINI PANDIT, I.A.S.



Print

STAMP REPORT

NATURE OF DEFECT

CONTC CASE NO. 9525/2023

1. COURT FEE DEFICIENT
2. VALUATION OF THE PROPERTY NOT GIVEN
3. AUTHENTICATION FEE IS DEFICIENT
4. AFFIDAVIT / VERIFICATION NOT PROPER
5. SECOND COPY OF THE PETITION NOT FILED
6. RECEIPT SHOWING SERVICE OF COPY TO AG / CG / IT / CT ETC. NOT FILED
7. VAKALATNAMA :
 - (i) NOT PROPERLY STAMPED / EXECUTED / ACCEPTED
 - (ii) NAMES IN CAPITAL LETTERS / ENROLMENT NUMBERS / MOBILE PHONE NUMBERS OF ALL THE SIGNING ADVOCATES NOT INDICATED
8. CAUSE TITLE NOT IN ORDER
9. PROVISION OF LAW NOT INDICATED ON TOP OF CAUSE TITLE
10. SUBJECT CODE NOT FURNISHED / INCORRECTLY MENTIONED
11. NEAT, LEGIBLE, ATTESTED ANNEXURES NOT FILED
12. ASSESSMENT SLIP NOT FILLED IN PROPERLY
13. NOT PROPERLY INDEXED
14. PETITIONS / APPEALS / APPLICATIONS :
 - (i) NOT IN SUPERIOR QUALITY A4 SIZE PAPER / LESS THAN 75 GSM PAPER
 - (ii) NOT IN PROPER FONT / NOT IN PROPER FONT SIZE
 - (iii) MARGIN NOT PROPER / LINE SPACING NOT PROPER
 - (iv) NOMENCLATURE NOT CORRECTLY INDICATED
 - (v) ALL PAPERS NOT PROPERLY SIGNED
 - (vi) NAME OF THE FILING ADVOCATE NOT IN CAPITAL LETTERS / ENROLMENT NUMBER NOT INDICATED WHEREVER SIGNATURE OF SUCH ADVOCATE APPEARING IN THE PETITION / APPEAL / APPLICATION
15. APPLICATION CONTAINS MORE THAN ONE PRAYER
16. LIMITATION PERIOD EXPIRED
17. REFERENCE CERTIFICATE NOT FURNISHED
18. CERTIFIED COPY OF TRIAL / APPELLATE COURT ORDER NOT FILED
19. UNDERTAKING FOR FILING OF TRANSLATED COPY NOT FILED
20. VERNACULAR CERTIFICATE NOT FURNISHED
21. STATUTORY DEPOSIT / AWARDED AMOUNT NOT DEPOSITED
22. OTHER DEFECT (IF ANY)

DEFECTIVE/READY

SUBJECT—

SUB-CATEGORY—

SINGLE JUDGE / DIVISION BENCH (Put ✓ mark)

(Full signature of Stamp Reporter)

M-9439062617

1. RFA/RSA/FAO/SAO/LPA/SPA/CRP/Review pet/O. Ref/EXFA/EXSA/SM/APP Tr. P(c) WP (c)/WA/SCLP/Co. Appl/Co. Pet/Co. Case/Co. App/Bkg, P/Mat. A/Mat Ref/RP (FAMCT) Test Case / Intest. Case/L.A. Ref/ RCFA/L.A.A./RCSA/RE Rev/MAC/MAC APP/EL Pet/ ELAPP/Arb, P/Arb. A/Arb. A/Insurance Ref/Cont. Cas(c)/Coutd. App (c) / MFA(name of the Act)/MSA/SP. JC (name of the Act) Cri A/Cri. Rev/Ckl. M. C/ BLAPI/Cal. MAPPI/WP (cri) CUSREF STREV.

Case Type Cont No 9525, 7023 Date of Regn. Mark]

2. If 'State' is Party, Name of the Deptt: (Pet/Res) [Put

Secretary Department of Health Mark]

If Public Undertakings (Specify name): (Pet/Res): [Put

3. (a) Number of Category under which the matter falls:

08

03

08

If Others, Specify the subject

Mark]

(b) Which is applicable? [Put

(Single Bench/Div. Bench/Three Judge Bench/Five Judge Bench)

Mark]

4. Article of the Constitution/Act (Central/State) [Put

An application u/s 12 of the Contempt of Courts Act

5. Section/Sub-Section Involved

6. Rules Involved

Contempt of Courts Act

7. Whether any other matter is pending in this Court on the same point of law? If so, give the number of matter:

8. Whether any other matter is pending against the impugned order/Judgement? if so give the number of matter:

9. Whether the matter is covered by any judgement of. the Supreme Court this Court or any other High Court, If so give the details of the judgement

10. Point of law involved in the matter An application by non-compliance for writ of habeas corpus

dt - 07-11-23

Date 01-12-23

Signature of the Advocate

SATYA PRAKASH NATH
(ADVOCATE) E.NO- 0-10462007
8763712303

IN THE HIGH COURT OF ORISSA :: CUTTACK
(ORIGINAL CRIMINAL MISCELLANEOUS
JURISDICTION)

CONTC No. 9525 of 2023
(Arising out of W.P. (C) No. 36009 of 2023)
disposed of on 07.11.2023

CODE NO. 080300

Narmada Das & Others : Petitioners

Versus

Shalini Pandit, I.A.S. & Another.

... .. : Contemnors / Opposite Parties

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4.	<u>Annexure-1</u> Copy of the order dated 07.11.2023 passed in W.P.(C) No. 36009 of 2023	10 - 19
5.	<u>Annexure-2</u> Copy of proof of communication.	20 - 21
6.	<u>Annexure-3</u> Copy of the order dated 24.11.2023.	22 - 23

CUTTACK

DT. 01.12.23

ADVOCATE FOR THE PETITIONERS.

SATYA PRAKASH NATH
(ADVOCATE) E.NO- 0-1046/2007
8763712303

Appendix-I

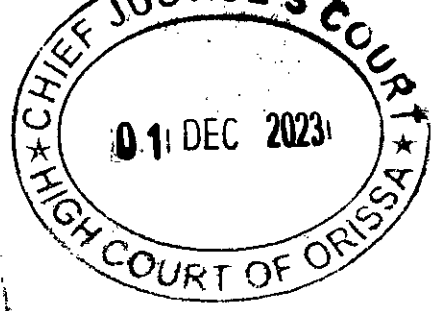
“A”

SYNOPSIS

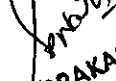
The petitioner files the contempt application challenging the non-compliance and deliberate violation of the order dated 07.11.2023 passed in W.P.(C) No. 36009/2023 even though the contemnor is very well aware about such order as the same was communicated to them on 09.11.2023.


SATYA PRAKASH NATH
(ADVOCATE) E.NO- 0-10462007
8763712303



**Appendix-II****"B"****LIST OF DATES**

1	07.11.2023	W.P (C) No. 36009/2023 was disposed of by this Hon'ble Court.
2.	09.11.2023	Order passed by this Hon'ble Court was communicated to the present contemnors.


SATYA PRAKASH NATH
(ADVOCATE) E.NO- O-10462007
8763712303



IN THE HIGH COURT OF ORISSA :: CUTTACK
(ORIGINAL CRIMINAL MISCELLANEOUS
JURISDICTION)

CONTC No. 9525 of 2023
(Arising out of W.P. (C) No. 36009 of 2023)
disposed of on 07.11.2023

code - 080300

IN THE MATTER OF:

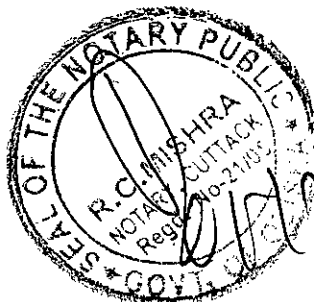
An application under section 12 of the Contempt of
Court's Act;

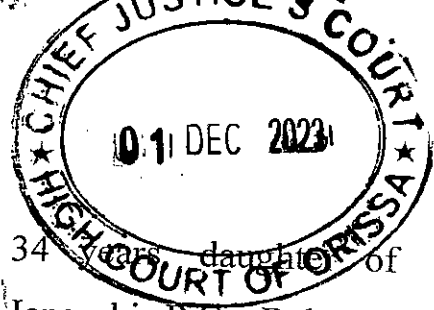
AND

IN THE MATTER OF:

1. Narmada Das, aged about 30 years, daughter of Adikanda Das, At: Oda, P.O./ P.S: Mahanga, District: Cuttack.
2. Lili Swain, aged about 28 years, daughter of Ajay Kumar Swain, At: Bodhei, P.O: Dagarapada, P.S:Tirtol, District: Jagatsinghpur.
3. Mamata Swain, aged about 37 years, daughter of Prafulla Kumar Swain, At / P.O.: Bhogasalada, P.S.: Nimapara, Dist: Puri.

Prakash
SAHYA PRAKASH NATH
(ADVOCATE) E.NO- 0-10462007
8763712303





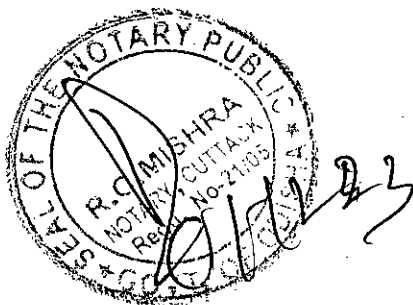
4. Sumitra Swain, aged about 34 years, daughter of Maheswar Swain, At: Balapur Jenasahi, P.O.: Balapur, P.S.: Satyabadi, Dist: Puri.
5. Rajashree Pradhan, aged about 33 years, daughter of Seshadev Pradhan, At: Nuapada, P.O.: Kerandapangi, Via: Chandapur, Dist: Nayagarh.
6. Rojalini Nayak, aged about 34 years, wife of Dasarathi Sahoo, At / P.O: Baigunia, Via: Khandapara, P.S: Fategarh, Dist: Nayagarh.
7. Jalandhar Pradhan, aged about 27 years, son of Umakanta Pradhan, At: Budhapal. P.O.:Sarapal, Via:Reamal. Dist: Deogarh.
8. Vishal Dash, aged about 38 years, wife of Prabhat Kumar Padhi, At: Imperial Mansion Apartment, behind Baramund Bus Stand, Bhubaneswar, Dist: Khurda.

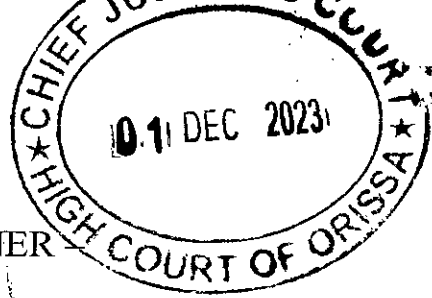
.. .. Petitioners

Versus

1. Shalini Pandit, I.A.S., Commissioner-cum-Secretary, Department of Health & Family Welfare, Government of Odisha, Rajiv Bhawan, Bhubaneswar, District: Khurda.
2. Bishnu Prasad Mishra, O.A.S, Secretary, Odisha Sub-Ordinate Staff Selection Commission, At/P.O./- Bhubaneswar, District- Khurda.

.. .. Contemnors





ADVOCATES FOR THE PETITIONER

SAUBHAGYA KUMAR SAMAL, (0-189/2007)
SUBHADUTTA ROUTRAY (O-442/2013), SHAKTI
SEKHAR (O-229/2018), JAGDISH BISWAL(O-572/2015),
A.K.DAS(O-1436/2019), MUNMUN PANDA(O-764/2014)

The matter out of which this application arises was before this Hon'ble Court in W.P. (C) No. 36009/2023 disposed of on 07.11.2023 as per instruction received from the client.

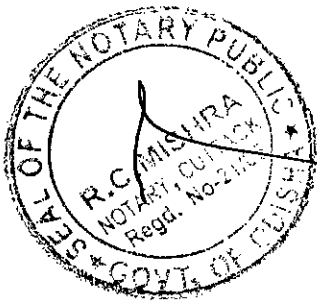
To

The Hon'ble The Acting Chief Justice & His Lordship's
Companion Justice of the said Hon'ble Court.

The humble petition of the
Petitioner, named above;

Most Respectfully Sheweth;

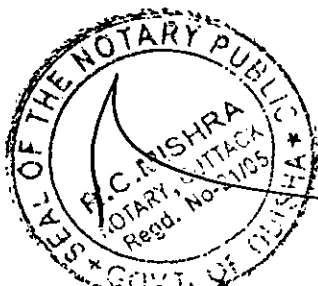
1. That the petitioners who are registered Nursing staffs since the year 2012 to 2014 offered their candidature for the post of Nursing Officer pursuant to the advertisement dated 21.01.2023 published by the opposite party No.3. After offering their candidature, not only their applications forms were scrutinized and found in order but also they were allowed to appear in the written test, qualified the same, their name appeared in the select list and were directed to appear for document verification



process. As the matter stood thus, on 20.10.2023, a list of disqualified candidates was published who allegedly did not have valid registration certificates under Clause 3(A) (v) wherein the name of the petitioners finds place. Such inclusion of the names of the petitioners in the reject list is not only illegal and arbitrary but also barred by doctrine of estoppel since the petitioners after being allowed to participate in the selection process on the strength of the registration certificates, their candidatures were ultimately rejected on the ground that they do not have valid registration certificates.

2. That the aforesaid matter was listed before this Hon'ble Court on 07.11.2023 and this Hon'ble Court after hearing the counsel for the parties was pleased to pass the dispose of the writ petition by directing the present contemnors to reconsider the issue keeping in view the observations and finding made in the Judgment as well as the Notification dated 18.12.2019 and the Corrigendum to the notification dated 02.01.2020. The operative portion of the Judgment is quoted hereunder for better appreciation of this Hon'ble Court.

"Therefore, the conduct of the Opposite Parties in holding that the petitioners were not having valid registration in terms by the advertisement is not correct and the same is too harsh. Moreover, this court also observed that the power under Rule 8(4) having been exercised by the government earlier as it appears from

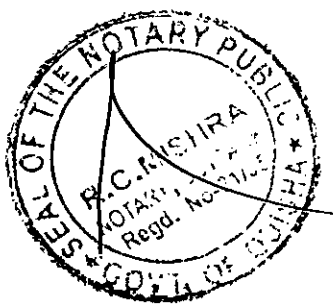


the additional affidavit, there is no bar in exercising such power of relaxation in genuine and appropriate cases. In view of the aforesaid analysis as well as keeping in view factual background of the present case this court deems it proper to dispose of the present writ application by remanding the matter to the Opposite Parties No. 1 & 3 to reconsider the whole issue again keeping in view aforesaid observations made by this court as well as the documents under Annexure-10 & 11 to the Additional Affidavit filed by the petitioner. Let the petitioner approach the opposite party no. 1 & 3 along with certified copy of this order within a period of two weeks from today. In such event opposite party no. 1 & 3 shall do well to consider the same as directed by this Court hereinabove and take a final decision within two weeks thereafter. The decision so taken be communicated to the petitioner within a week thereafter. Any appointment made in the meantime shall be subject to the decision to be taken by the Opposite Party 1 & 3 as directed hereinabove..”

The copy of the order dated 07.11.2023 passed in W.P.(C) No. 36009 of 2023 is annexed herewith as Annexure-1.

3. That after the aforesaid order was passed by this Hon'ble Court, the petitioner communicated the order passed in the writ petition to the contemnors on 09.11.2023 by submitting the certified copy of the order along with the

Jonath

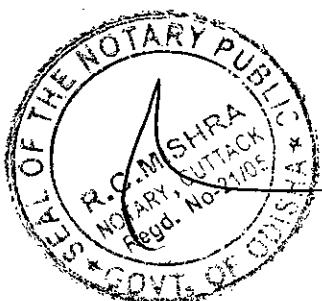


representation which has been duly received by office of the contemnors. The copy of the postal receipts are annexed herewith as Annexure-2 Series.

4. That it is humbly submitted that though this Hon'ble Court while passing the judgment had specifically directed the present contemnors to re-consider the case of the petitioners keeping in view the observation and findings as well as the notification dated 18.12.2019 and corrigendum to the notification dated 02.01.2020 but the contemnors without complying with the judgment in its letter and spirit, constituted a Sub-Committee to look into the grievance of the petitioner and basing on the opinion / views of the Sub-Committee, the contemnor has rejected the prayer of the petitioners vide order dated 24.11.2023. Thereby such action of the contemnor is not only illegal and arbitrary but also contrary to the judgment passed by this Hon'ble Court in as much as the same is contemptuous. The copy of the order dated 24.11.2023 is annexed herewith as Annexure-3.

5. That though this Hon'ble Court in its judgment dated 07.11.2023 at paragraph No. 7 has specifically observed that once the registration certificate issued in favour of the petitioners is renewed, such renewal means revival of the original registration without any break and the registration certificate originally issued continues to remain valid but while considering the case of the petitioners, nowhere the findings

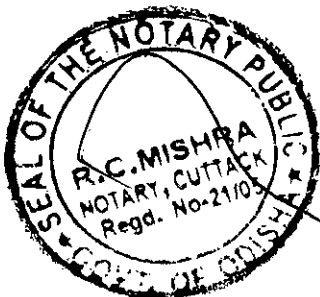
Sanath



and observation made by this Hon'ble Court have been given emphasize on rather the contemnors have proceeded in an arbitrary manner by solely relying upon the views of the Sub-Committee and completely disregarding the judgment passed by this Hon'ble Court. Such action of the contemnors is willful disobedience of the judgment passed by this Hon'ble Court.

6. That it is further submitted that the opposite parties in the guise of compliance of the judgment passed by this Hon'ble Court have made an attempt to somehow defeat the very objective and purpose of the judgment while passing the order dated 24.11.2023 by rejecting the prayer of the petitioner. Such action of the contemnors is a deliberate attempt to violate the order passed by this Hon'ble Court.

7. That under the aforesaid facts and circumstances, it is necessary in the interest of justice to initiate a contempt proceeding against the contemnor for willful and deliberate violation of the order dated 07.11.2023 passed in W.P.(C) No. 36009 of 2023 and the contemnors may be suitably punished under the Contempt of Court's Act for not complying with the direction of this Hon'ble Court passed in the aforesaid writ application or in the alternative the contemnors-opposite party be directed to comply with the order dated 07.11.2023 passed in W.P.(C) No. 36009 of 2023 without any further delay otherwise the petitioner will be seriously prejudiced.



P R A Y E R

It is therefore, most humbly prayed that this Hon'ble Court be graciously pleased to initiate a contempt proceeding as against the contemnors for willful and deliberate violation of the order dated 07.11.2023 passed in W.P.(C) No. 36009 of 2023 and the contemnors may be suitably punished under the Contempt of Court's Act for not complying with the direction of this Hon'ble Court in the aforesaid writ petition or in the alternative the contemnors-opposite parties be directed to comply with the order dated 07.11.2023 passed in W.P.(C) No. 36009 of 2023 without any further delay.

And/or pass such other order/orders, direction/directions as this Hon'ble Court may deem fit and proper for the ends of justice.

And for the said act of kindness, the petitioners as in duty bound shall ever pray.

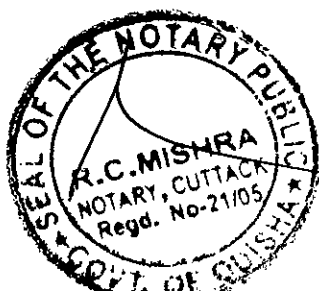
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Dt. 01-12-23

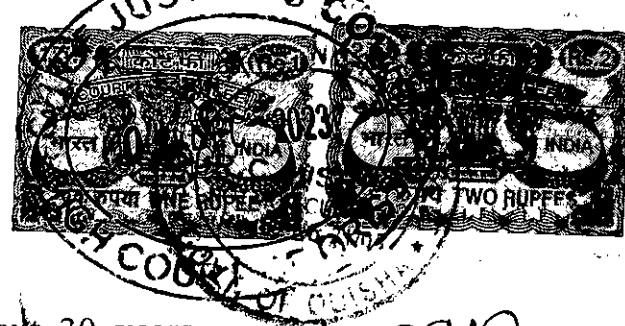
By the petitioners through

Satya Prakash Nath
Advocate

SATYA PRAKASH NATH
(ADVOCATE) E.NO- 0-1046/2007
8763712303



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AFFIDAVIT

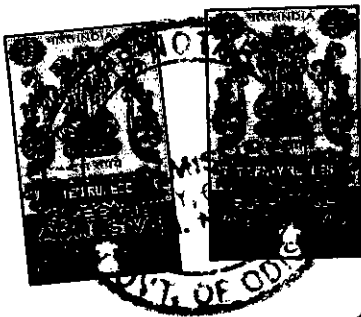
I, Narmada Das, aged about 30 years, daughter of Adikanda Das, At: Oda, P.O./ P.S: Mahanga, District: Cuttack, do hereby solemnly affirm and state as follows:

1. That I am petitioner No.1 in the present writ application and have been duly authorized by other petitioners to swear this affidavit on their behalf.
2. That the facts stated above are true to the best of my knowledge and belief.

Identified by

Siddip Kumar Mishra
A.C.

Narmada Das
deponent



CERTIFICATE

Certified that due to non-availability of cartridge paper this petition has been prepared in white thick papers.

Cuttack

Dt. 01-12-23

Satya Prakash Nath
Advocate

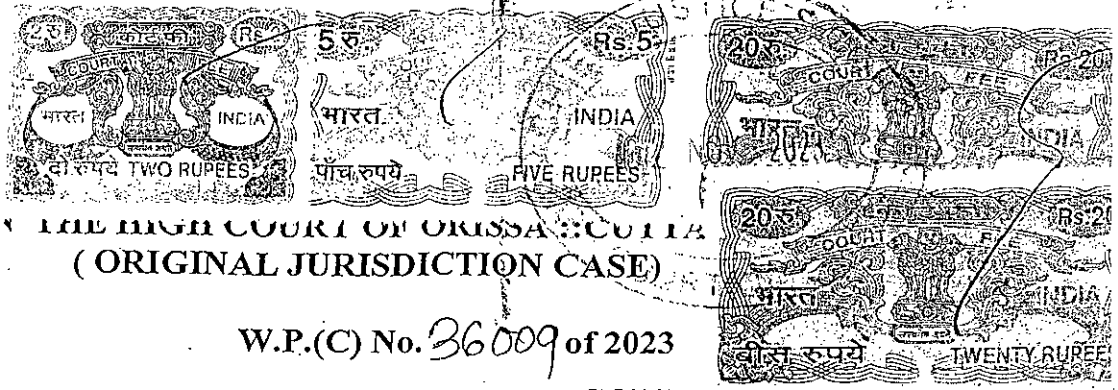
SATYA PRAKASH NATH

Solemnly affirm on oath by the ~~Advocate~~ *Advocate* NO- 0-1046/2007
at Cuttack on 01/12/23 being in order 1268712303

by *Rama Chandra Mishra*
Advocate/Adv's Clerk, A.C.'s office/Notary
Personally, the facts stated above are
true to the best of his/her knowledge.

Rama Chandra Mishra
RAMA CHANDRA MISHRA, NOTARY
CUTTACK TOWN, REGD. NO. 21/03

6123



IN THE HIGH COURT OF ORISSA: CUTTACK
(ORIGINAL JURISDICTION CASE)

W.P.(C) No. 36009 of 2023

CODE NO. 310799

IN THE MATTER OF :

An application under Articles 226 and 227 of the
Constitution of India;

AND

IN THE MATTER OF :

An application challenging the action of the
opposite parties in rejecting the candidature of the
petitioners pursuant to the advertisement dated
21.01.2023 on the ground that they do not have valid
registration certificate though the petitioners have not
only qualified in the written test but also were found
suitable for appointment after appearing in the
document verification process;

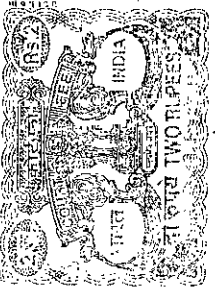
AND

IN THE MATTER OF :

1. Narmada Das, aged about 30 years, daughter of
Adikanda Das, At: Oda, P.O./ P.S: Mahanga,
District: Cuttack.
2. Lili Swain, aged about 28 years, daughter of
Ajay Kumar Swain, At: Bodhei, P.O:
Dagarapada, P.S:Tirtol, District: Jagatsinghpur.
3. Mamata Swain, aged about 37 years, daughter
of Prafulla Kumar Swain, At / P.O.:
Bhogasalada, P.S.: Nimapara, Dist: Puri.

Presented in Court

9/02/11/23 B.O.



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-O-229/2013
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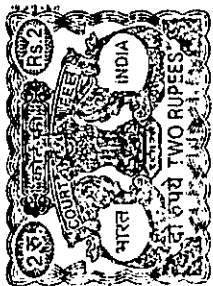
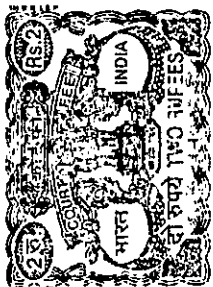
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4. Sumitra Swain, aged about 34 years, daughter of Maheswar Swain, At: Balapur Jenasahi, P.O.: Balapur, P.S.: Satyabadi, Dist: Puri.
5. Rajashree Pradhan, aged about 33 years, daughter of Seshadev Pradhan, At: Nuapada, P.O.: Kerandapangi, Via: Chandapur, Dist: Nayagarh.
6. Rojalini Nayak, aged about 34 years, wife of Dasarathi Sahoo, At / P.O: Baigunia, Via: Khandapara, P.S: Fategarh, Dist: Nayagarh.
7. Jalandhar Pradhan, aged about 27 years, son of Umakanta Pradhan, At: Budhapal. P.O.: Sarapal, Via: Reamal. Dist: Deogarh.
8. Vishal Dash, aged about 38 years, wife of Prabhat Kumar Padhi, At: Imperial Mansion Apartment, behind Baramund Bus Stand, Bhubaneswar, Dist: Khurda.

.. . . . Petitioners

Versus

1. State of Odisha, represented through its Commissioner-cum-Secretary, Department of Health & Family Welfare, Rajiv Bhawan, Bhubaneswar, District: Khurda.
2. Director, Health Services, Odisha, Bhubaneswar, District: Khurda.
3. Secretary, Odisha Sub-Ordinate Staff Selection Commission, At/P.O./-Bhubaneswar, District- Khurda.



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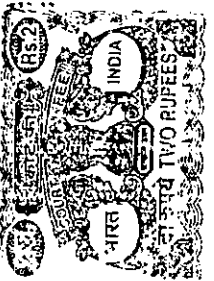
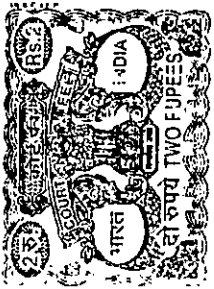
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4. Registrar, Odisha Nurses and Midwives
Registration Council, Heads of Department
Building, At / P.O: Bhubaneswar, Dist: Khurda.

... .. Opp. Parties

(The matter out of which this writ application ...)



h

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.36009 of 2023

Narmada Das & Ors.

Petitioners

Mr. B.Routray, Sr.Advocate

-versus-

State of Odisha & Ors.

Opposite Parties

Mr. Nikhil Pratap, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

07.11.2023

Order No.

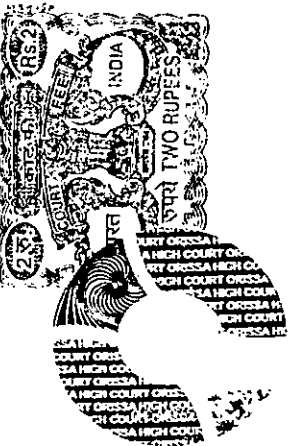
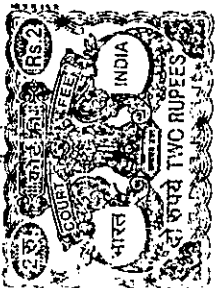
01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

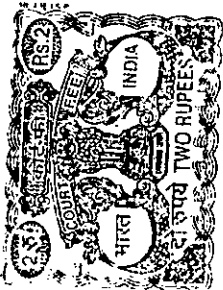
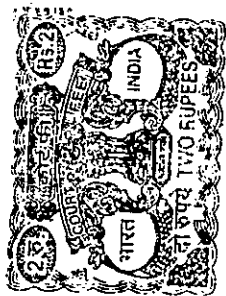
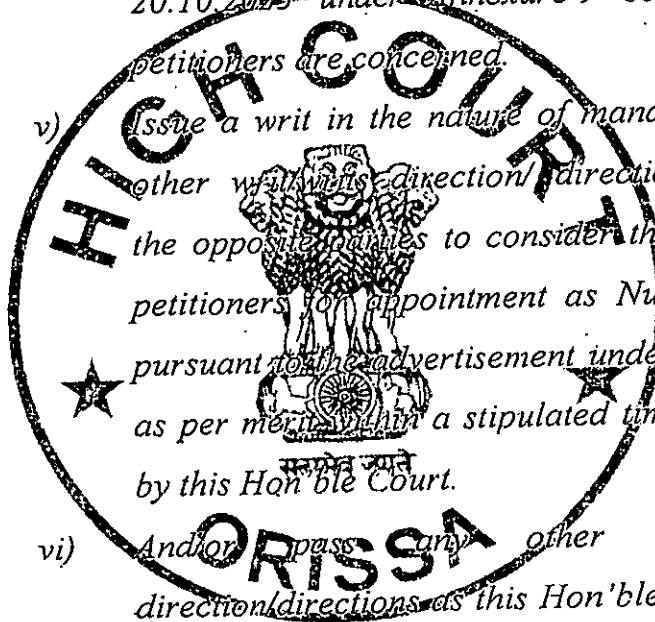
2. Heard Mr. B.Routray, learned Senior counsel appearing for the Petitioner along with Mr. S.D. Routray, learned counsel and Mr. Anjan Kumar Biswal, learned counsel appearing in W.P.(C) No.36100 of 2023 and learned Additional Standing counsel appearing for the Opposite Party board above noted application. Perused the Writ Petition as well as the documents annexed thereto including the additional affidavit filed in Court today.

3. Both the writ application has been filed with an identical prayer. Accordingly the prayer in the aforesaid writ application that is W.P.(C) No.36009 of 2023 is quoted present below.

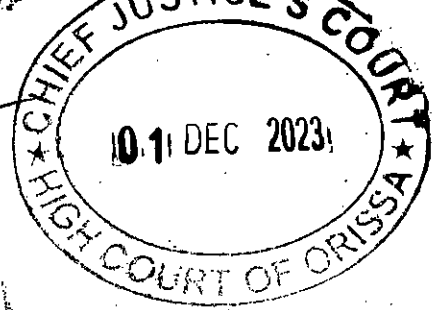
"It is therefore, most humbly prayed that this Hon'ble Court be graciously pleased to



- i) Admit the writ application.
- ii) Call for the record.
- iii) Issue rule NISI calling upon the Opp. parties to show cause as to why the reject list dated 20.10.2023 under Annexure-6 so far as the petitioners are concerned shall not be quashed.
- iv) And if the Opp. Parties fails to show cause of show insufficient cause, issue a writ in the nature of certiorari or any other writ/ writs, direction/ directions by quashing the reject list dated 20.10.2023 under Annexure-9 so far as the petitioners are concerned.
- v) Issue a writ in the nature of mandamus or any other writ/ writs, direction/ directions directing the opposite parties to consider the case of the petitioners for appointment as Nursing Officer pursuant to the advertisement under Annexure-1 as per merit within a stipulated time to be fixed by this Hon'ble Court.
- vi) And/or pass any other order/orders, direction/directions as this Hon'ble Court deems fit and proper for the ends of justice."

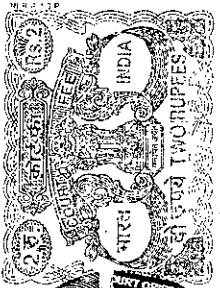
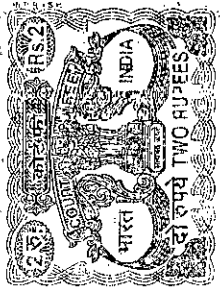


4. Mr. Routray learned counsel appearing for the petitioner submitted that the petitioners have completed GNM/ B.Sc in Nursing in between 2014-17 from an institution recognized by the Government. Thereafter they had applied for registration with the Nursing Council of Odisha, pursuant to which they were granted a valid registration certificate in the year 2017. Thereafter such registration certificate fell due for renewal. In the meantime the Government of Odisha issued an



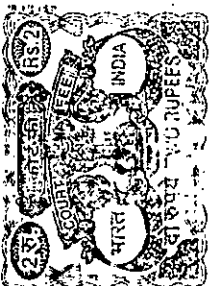
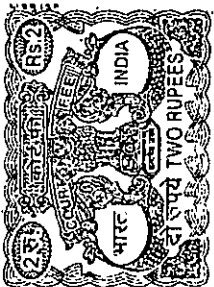
advertisement dated 21.01.2023 under Annexure-1 to the writ application, inviting application from the eligible candidates for 7483 posts of Nursing Officer. Pursuant to the aforesaid advertisement the petitioner along with other eligible candidates participated in the recruitment posts by submitting their duly filled up application forms. On scrutiny of their application forms, they were found to be in order and accordingly the candidates were allowed to participate in the recruitment test conducted by the Odisha Staff Selection Commission. Finally the petitioners qualified in the present recruitment examination and received a notices from Opposite Party No.3 for verification of the petitioner's original documents on 09.08.2023. As per the notice the petitioners appeared before the Opposite Party No.3 on 21.08.2023 for verification of their certificates with their original documents. In between 21.08.2023, -01.09.2023 their documents were verified by the concerned CDM & PHO of their respective districts.

5. On 20.10.2023 the commission published a list of qualified candidates, such list reveals the names of the present petitioners. On perusal of the list which has been appended to the writ application under Annexure 9 it seems that the candidature of the petitioners has been disqualified as they were not having valid registration certificate from the Nursing Council of Odisha as is required under Clause 3 (A) (v) of the advertisement, under Annexure-1 to the writ application. It was also contended before this Court that on 30.10.2023 another list was published under Annexure-7 containing the names of 3732 candidates who were provisionally selected for recruitment of Nursing Council. It was also contended by the counsel appearing for the petitioner that at the moment 3751 posts of Nursing Officer are still vacant. So far the present petitioner and similarly situated many other candidates are concerned, it is stated by learned Senior counsel and Mr. B. Routray learned counsel in the second writ application, that although



many posts of Nursing Officer are still vacant, the petitioner and other similarly situated candidates who were selected via the selection process have been disqualified illegally and arbitrarily on the ground that they do not have a valid registration certificate from the Nursing Council of Odisha as on the date of advertisement as required under the advertisement under Annexure-1.

6. Mr. Routray, learned Senior counsel appearing for the petitioner at this juncture, referring to the additional affidavit, submitted before this Court that on an earlier occasion the state Government has come up with a notification dated 18.12.2019 under Annexure-10 to the additional affidavit wherein it is stipulated under clause-7 of said notification that, candidates not having a valid registration shall be allowed appear in the examination provided they furnish an undertaking that, in the event they are selected for the post, they shall re-produce the valid registration issued by the Odisha Nursing Council within six months from the date of appointment. He further contended that the aforesaid relaxation was granted in terms of Rule 8(4) of Odisha Nursing service (Method Of Recruitment And Conditions Of Service) Rules, 2019. He also referred to the corrigendum dated 02.01.2020 under annexure-14 to the writ application. On perusal of the corrigendum, it appears that under point No.7 a similar relaxation has also been granted in the shape of seeking extension of joining time in the event the selected candidates does not have a valid registration certificate by the Odisha Nursing Council. So far the present petitioner is concerned it is stated by learned counsel for the petitioner that, the petitioners had the valid registration certificate. However, the same fell due of renewal after expiry of inspection while the same was process of renewal advertisement. Such registration certificates have been renewed before the last date of submission of the application form, i.e. 17.02.2023. It was also contended that the fact had also been reflected

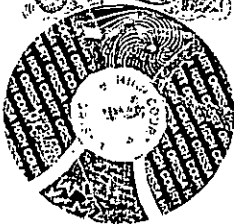
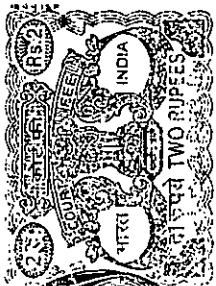
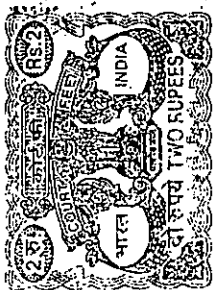




in the application form submitted by the respective candidates along with a reference to the valid registration number. Additionally it was contended that the petitioner had the valid registration certificate however the same was required to be renewed. Furthermore it was contended that, once the same was renewed by a competent authority, the validity of the certificate continues without any break. Moreover it appears from the Rules of 2019 that the Government is vested with the power under rule 8(4) to grant relaxation in appropriate cases. Such powers, it seems, have also been used by the Government on earlier occasions. In such view of the matter learned Senior counsel appearing for the petitioner submitted that the matter is to be reconsidered by the competent authorities by keeping in view the aforesaid factual as well as legal position. Learned Addl. Standing Counsel on the other hand submitted that the advertisement under Annexure-1 clearly specified that earlier registration certificate is one of the mandatory requirements to be considered for the appointment to the post of Nursing Officer. He further contended that, during verification of certificates and original documents it was found that the petitioner were not having the valid registration certificate as required under Annexure-1, their candidature has been disqualified and they have not been appointed to the post of Nursing Officer. In such view of the matter learned Addl. Standing counsel submitted that the opposite party has not committed any illegality at all in disqualifying the candidature of petitioner and other similar candidates who were not having a valid registration certificate from the Odisha Nursing Council and were unable to produce the same during verification of certificates and original documents, and as such it was contended that writ application is devoid of any merit and the same should be dismissed.

7. Having heard the learned counsel appearing for the petitioners and the learned Addl. Standing Counsel for the State-Opposite Parties,

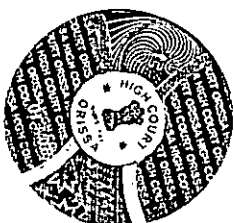
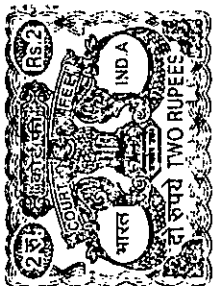
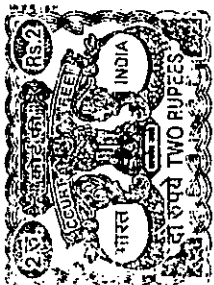
and on a careful examination of the background facts, this court observes that the candidature of petitioners has been disqualified on the ground that the petitioners were not having a valid registration certificate by the Odisha Nursing Council. On perusal of the record it appears that, the petitioners after completion of the course from recognized government institutions, had applied for registration with the Odisha Nursing Council. Subsequently they have been granted a valid registration certificate by such council. Further, it appears that such registration certificate issued by the council is required to be renewed from time to time. So far the present petitioners are concerned, in their case, the renewal of their registration certificate fell due during the time when the advertisement was published under Annexure-1 to the writ application. However, it is not disputed that the registration certificate issued in favour of the petitioner by the Odisha Nursing Council was duly renewed, and that such renewal means revival of the original registration without any break, and the registration certificate originally issued by the authority continues to remain valid. Therefore it cannot be said that the petitioners were not having a valid registration certificate. It also appears that the registration number assigned to the petitioners also remains the same even after the renewal of such registration certificates. Further, on perusal of the facts of the present case, this court is also of the observation that, merely because the registration certificate is required to be renewed after a certain interval, it cannot be presumed that the same can valid certificate is in process of renewal. Moreover it is settled law that when a certificate is renewed, the certificate continues to remain valid, from the date of its initial issue, until the same is lawfully cancelled or terminated. From the records of this case, it reveals what the opposite parties have not stated that the registration certificate has either been cancelled or terminated. Therefore, the conduct of the Opposite Parties in holding that the



petitioners were not having valid registration in terms by the advertisement is not correct and the same is too harsh. Moreover, this court also observed that the power under Rule 8(4) having been exercised by the government earlier as it appears from the additional affidavit, there is no bar in exercising such power of relaxation in genuine and appropriate cases. In view of the aforesaid analysis as well as keeping in view factual background of the present case this court deems it proper to dispose of the present writ application by remanding the matter to the Opposite Parties No. 1 & 3 to reconsider the whole issue again keeping in view aforesaid observations made by this court as well as the documents under Annexure-10 & 11 to the Additional Affidavit filed by the petitioner. Let the petitioner approach the opposite party no. 1 & 3 along with certified copy of this order within a period of two weeks from today. In such event opposite party no. 1 & 3 shall do well to consider the same as directed by this Court hereinabove and take a final decision within two weeks thereafter. The decision so taken be communicated to the petitioner within a week thereafter. Any appointment made in the meantime shall be subject to the decision to be taken by the Opposite Party 1 & 3 as directed hereinabove.

8. With the aforesaid observations/ directions, the writ application stands disposed of.

Issue urgent certified copy of this order as per Rules.



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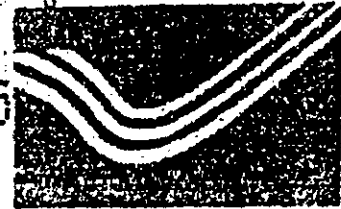
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ADVOCATE

Sd - A.K. Mohapatra, J.

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Annexure - 2

भारतीय डाक



India Post

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SF BHUBANESWAR G.P.O. <751001>

Counter No:1, 09/11/2023, 14:55

To: COMMISSIONER CUM SECY, BBSP

FIN:751001, Bhubaneswar G.P.O.

From: N DAS, CUTTACK

Wt: 70gms

Am: 29.50() Tax: 4.50

<Track on www.indiapost.gov.in>

<Call 18002664848> <Wear Masks, Stay Safe>

WP(C) No 36004 /

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COPY ATTESTED
Proth
 ADVOCATE



Government of Odisha
Health and Family Welfare Department

ORDER

No. HFW-MS-III-CASE-/H -0192-2023 29094 Date 24.11.2023

Whereas, perused the common order dated-07.11.2023 and dated-08.11.2023 passed by the Hon'ble High Court of Orissa in WP(C) No-36009 of 2023 filed by Narmada Dash & 07 others, WP(C) No-36238 of 2023 filed by Madhusmita Jena & 74 Others and WP(C) No-36239 of 2023 filed by Rojalin Dash & 02 others, wherein the Hon'ble High Court has disposed of the writ petitions with following observations and directions.

Having heard the learned counsel appearing for the petitioners and the learned Addl. Standing Counsel for the State-Opposite Parties, and on a careful examination of the background facts, this court observes that the candidature of petitioners has been disqualified on the ground that the petitioners were not having a valid registration certificate by the Odisha Nursing Council. On perusal of the record it appears that, the petitioners after completion of the course from recognized government institutions, had applied for registration with the Odisha Nursing Council. Subsequently they have been granted a valid registration certificate by such counsel. Further, it appears that such registration certificate issued by the counsel is required to be renewed from time to time. So far the present petitioners are concerned, in their case, the renewal of their registration certificate fell due during the time when the advertisement was published under Annexure-1 to the writ application. However, it is not disputed that the registration certificate issued in favour of the petitioner by the Odisha Nursing Council was duly renewed, and that such renewal means revival of the original registration without any break, and the registration certificate originally issued by the authority continuous to remain valid. Therefore it cannot be said that the petitioner were not having a valid registration certificate. It also appears that the registration number assigned to the petitioners also remains the same even after the renewal of such registration certificates. Further, on perusal of the facts of the present case, this court is also of the observation that, merely because the registration certificate is required to be renewed after a certain interval, it cannot be presumed that the same can valid certificate is in process of renewal. Moreover it is settled law that when a certificate is renewed, the certificate continues to remain valid, from the date of its initial issue, until the same is lawfully cancelled or terminated. From the records of this case, it reveals what the opposite parties have not stated that the registration certificate has either been cancelled or terminated. Therefore, the conduct of the Opposite Parties in holding that the petitioners were not having valid registration in terms by the advertisement is not correct and the same is too harsh. Moreover, this court also observed that the power under Rule 8(4) having been exercised by the government earlier as it appears from the additional

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affidavit, there is no bar in exercising such power of relaxation in genuine and appropriate cases. In view of the aforesaid analysis as well as keeping in view factual background of the present case this court deems it proper to dispose of the present writ application by remanding the matter to the Opposite Parties No. 1 & 3 to reconsider the whole issue again keeping in view aforesaid observations made by this court as well as the documents under Annexure-10 & 11 to the Additional Affidavit filed by the petitioner. Let the petitioner approach the opposite party no. 1 & 3 along with certified copy of this order within a period of two weeks from today. In such event opposite party no. 1 & 3 shall do well to consider the same as directed by this Court hereinabove and take a final decision within two weeks thereafter. The decision so taken be communicated to the petitioner within a week thereafter. Any appointment made in the meantime shall be subject to the decision to be taken by the Opposite Party 1 & 3 as directed hereinabove.

And whereas, pursuant to the above orders of the Hon'ble High Court, the above Petitioners have filed their representations along with copy of the above orders of the Hon'ble High Court to the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) as well as to the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) with request to include their names in the list of qualified candidates for recruitment to the post of Nursing Officer, 2023.

And whereas, the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) vide letter dated-22.11.2023 has forwarded the representations of the above Petitioners to the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) to take the appropriate decision in the matter.


And whereas, perusal of the representations of the Petitioners revealed that they have requested to consider their cases for appointment as Nursing Officers pursuant to the advertisement under Annexure-1 as per merit within a stipulated time to be fixed by this Hon'ble Court.

And whereas, perusal of the records revealed that the Annexure-1 of the writ petition is the advertisement for recruitment of the Nursing Officer published by the OP No-3. The Annexure-10 of the writ petition is the Notification No-33172, dated-18.12.2019 relating to issuance of the guidelines on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019. Further, the Annexure-11 of the writ petition is the corrigendum No-128, dated-02.01.2020 regarding modification of the point No-3, 7 & 8 of the Notification dated-18.12.2019 under Annexure-10.

And whereas, pursuant to the above orders of the Hon'ble High Court, the OP No-1 has formed a Committee vide this Department order No-28918, dated-23.11.2023 to examine the cases of the Petitioners following the relevant provisions of law as well as the relevant records and to submit their report in the matter.

And whereas, the Committee examined the cases in pursuance of the relevant provisions of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019, relevant records along with the Advertisement under Annexure-1 and the documents under Annexure-10 & 11 of the writ petition and submitted their report.

And whereas, perused the report of the Committee and the advertisement under Annexure-1 and other documents under Annexure-10 & 11 along with the relevant provisions of the Cadre Rule and relevant records.



And whereas, pursuant to the provision of Rule-8(3) of Odisha Nursing Service (Method of Recruitment and conditions of service) rules 2019 and amendment rules 2020, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) has been empowered to make the detail scrutiny of the application forms, the manner of submission of application, the documents required to be accompanied with the application form and fee required.

And whereas, as per rule-9(xi) in order to be eligible for direct recruitment to the post of Staff Nurse, a candidate must have registered her/his name in Nursing Council in the state and have possessed valid Registration Certificates as on the date of advertisement. The Petitioners have referred this Department vide No.33172 dated 18.12.2019 under Annexure-10 relating to issuance of the guidelines on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019, wherein there is a relaxation of six months for production of valid Registration Certificates, though the said Notification dated-18.12.2019 has already been amended in 2020 (came into force with effect from 04.11.2020) after issuance of this letter as well as corrigendum dated-02.01.2020 under Annexure-11. As such, subsequent to Notification of the amended cadre rule, the letter issued before this amendment ceased to be in force.


And whereas, the Petitioners have not mentioned fresh / renewed at the space meant for registration certificates on their applications. It has been clearly notified in the advertisement that application is valid after verification of all uploaded documents. The applicants in fact suppressed regarding renewal of registration certificates in their application forms and submitted that they possess valid Registration Certificates as on the date of advertisement, because of which, i.e., suppression of fact, their cases have been considered and they have been selected. This is against the conditions stipulated in the advertisement, wherein it was stipulated that if at any stage any misinterpretation / suppression / furnishing of wrong information / manipulation by candidates shall result in cancellation/disqualification of his / her candidature at any stage of the recruitment process, even after issue of appointment order.

And whereas, if the cases of the candidates are considered at this stage, it will be a great injustice to those candidates, who though in similar footing did not apply for the posts abiding by the conditions stipulated in the advertisement that they should possess valid registration certificate as on the date of advertisement. Further, the process will be unending and whoever, renews a certificate at any stage can claim validity of the certificate on the basis of its continuance.

And whereas, the Committee did not dispute the fact of validity of a renewed certificate with the same Registration Number, but of the view that, this process of renewal should have been completed before the date of advertisement as per the conditions of advertisement as well as provision of Cadre Rules.

And whereas, the Commissioner-cum-Secretary to Government (OP No-1) as well as the OP No-3 have not been given the opportunities to appraise the above facts through the Counter affidavit before the Hon'ble High Court prior to passing of the above orders by the Hon'ble High Court.

And whereas, especially the views of the Committee, the advertisement under Annexure-1 and other documents under Annexure-10 & 11 along with the relevant provisions of the Cadre Rule and relevant records were examined in detail and reconsidered and found to be reasonable and in order as per the prevailing norm of Government.



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Therefore, the prayers of the Petitioners to include in the list of qualified candidates for recruitment to the npost of Nursing Officers, 2023 have not merit for consideration and hence, the same is rejected being devoid of any merit. Supply the copy to this order to the Petitioners.

Commissioner-cum-Secretary to Government

Memo No- 29095 dated 24.11.2023

Copy forwarded to the Advocate General, Odisha, Cuttack for information and necessary action.

Memo No- 29096 dated 24.11.2023

Copy forwarded to the Director, Health Services, Odisha, Bhubaneswar / Director, Nursing, Odisha, Bhubaneswar for information and necessary action.

Memo No- 29097 dated 24.11.2023

Copy forwarded to the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar for information and necessary action.

Memo No- 29105 dated 24.11.2023

Copy forwarded to Narmada Das, D/o Adikanda Das, At-Oda, PO/PS-Mahanga, District-Cuttack and Others for information.

Memo No- 29106 dated 24.11.2023

Copy forwarded to Rojalini Das, W/o Sangram Kumar Parida, At-Chatol, PO-Dhunpur, Dist-Jagatsinghpur and Others for information.

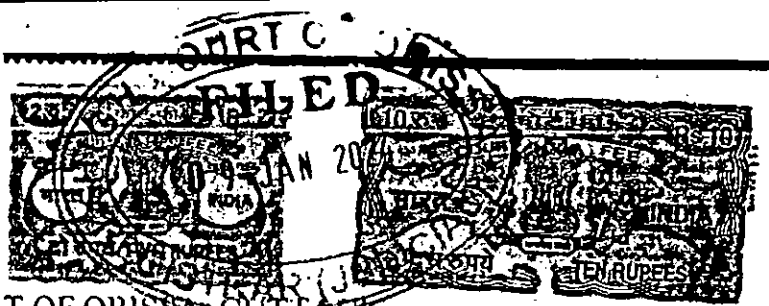
Memo No- 29107 dated 24.11.2023

Copy forwarded to Madhusmita Jena, D/o Rashbihari Jena, At/PO-Bartana, PS-Jaleswar Dist-Balasore and Others for information.

Memo No- 29108 dated 24.11.2023

Copy forwarded to Priyankarani Jena, C/o-Isha Dutta Lima, At-Church Street, PO-Badapada, Dist-Gajapati and Others for information.

COP ATTESTED
ADVOCATE



IN THE HIGH COURT OF ORISSA, CUTTACK

W.A. No. 9 of 2024

(Arising out of W.P.(C) No. 36009 of 2023,
Decided on 07.11.2023)

Code No. 210799

In the matter of :

An appeal under Article-4 of the
Orissa High Court Orders, 1948
read with Clause-10 of the Letter
Patent of the Orissa High Court;

And

In the matter of :

An appeal challenging the judgment
and order dated 07.11.2023 passed
in W.P.(C) No. 36009 of 2023 by
the Hon'ble Single Judge;

And

In the matter of :

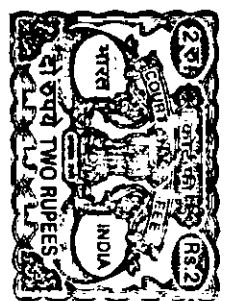
1. State of Odisha represented through
its Commissioner-cum-Secretary to
Government, Health & Family
Welfare Department, Lokseva
Bhawan, Bhubaneswar, Dist-Khurda
2. Director, Health Services, Odisha,
Bhubaneswar, Dist.-Khurda.

...APPELLANTS

(Opposite Party Nos.1 and 2
in the writ application)

Presented on 11/1/2024

sm
Registrar (Judicial)



Ratnavor Khera

p

-VERSUS-

1. Narmada Das, aged about 30 years, D/O Adikanda Das, At - Oda, P.O./P.S.-Mahanga, Dist- Cuttack.
2. Lili Swain, aged about 28 years, D/O Ajaya Kumar Swain, At-Bodhei, P.O.-Dagarapada, P.S.-Tirtol, Dist-Jagatsinghpur.
3. Mamata Swain, aged about 37 years, D/O Prafulla Kumar Swain, At/P.O.-Bhogasalada, P.S.-Nimapara, Dist-Puri,
4. Sumitra Swain, aged about 34 years, D/O- Maheswar Swain, At-Balapur Jena Sahi, P.O.-Balapur, P.S.-Satyabadi, Dist-Puri.
5. Rajashree Pradhan, aged about 33 years, D/O Seshadeva Pradhan, At-Nuapada, P.O.-Kerandapangi, Via-Chandpur, Dist-Nayagarh.
6. Rosalin Nayak, aged about 34 years, D/O Dasarathi Sahoo, At/Po-Baigunia, Via-Khandapara, P.S.-Fategarh, Dist-Nayagarh.
7. Jalandhar Pradhan, aged about 27 years, S/O Umakanta Pradhan, At-Budhapal, P.O.-Sarpal, Via-Reamal, Dist-Deogarh.
8. Vishal Dash, Aged about 38 years, W/o- Prabhat Kumar Padhi, At-Imperial Mansion Apartment, Behind Baramund Bus Stand, Bhubaneswar, Dist-Khurda.

.... Respondents

(Petitioners No. 1 to 8 in the writ Petition)

Ratna Kumar



[Signature]

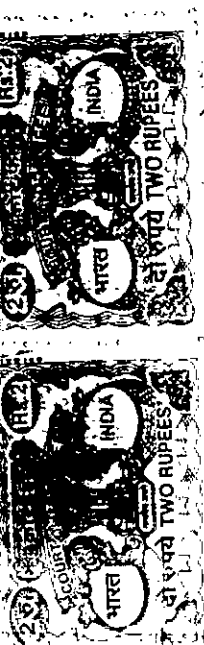
9. The Secretary, Odisha Sub-Ordinate Staff Selection Commission, At/P.O/Town-Bhubaneswar, Dist- Khurda
10. Registrar, Odisha Nurses and Midwives Registration Council, Heads of Department Building, At/PO- Bhubaneswar, Dist- Khurdha

...PROFORMA RESPONDENTS

(Opposite Party No. 3 & 4 in the Writ Petition)

Ratnas Behra

(The matter out of which this writ appeal arises



[Handwritten signature]

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 9 of 2024

State of Odisha and another

.....

Appellants

Mr. R.N. Mishra, AGA

Vs.

Narmada Das and others

.....

Respondents

Mr. S.K. Das, Adv. [Caveator]

Mr. S.D. Routray, Sr. Adv. along with

Mr. S.D. Routray, Adv.

[Respondent Nos.2 to 8]

CORAM:

ACTING CHIEF JUSTICE DR. B.R. SARANGI

MR. JUSTICE MURAHARI SRI RAMAN

ORDER

01.02.2024

I.A. No. 51 of 2024

Order No.

01.

This matter is taken up by hybrid mode.

2. Heard learned counsel for the parties.

3. This application has been filed by the appellants seeking condonation of delay of 28 days in preferring the appeal.

4. Considering the grounds taken in the application and after hearing the parties, the delay of 28 days in filing the writ appeal is condoned.

5. I.A. stands disposed of.

Sd - Dr. B.R. Sarangi, A.C.J.
Sd - M.S. Raman, J.

W.A. No. 9 of 2024

Order No.

02.

This matter is taken up by hybrid mode.

2. Heard Mr. R.N. Mishra, learned Addl. Government Advocate appearing for the State-appellants; Mr. S.K. Das, learned counsel appearing for the caveator; and Mr. B. Routray, learned Senior Counsel appearing along with Mr. S.D. Routray, learned counsel for respondent nos.2 to 8.

3. This writ appeal has been filed by the State-appellants challenging the order dated 07.11.2023 passed in W.P.(C) No. 36009 of 2023, by which the learned Single Judge directed the appellants to consider the case of the private respondents and take a final decision within two weeks and the decision shall be communicated to the respondents within a week thereafter. As such, this Court further directed that any appointment made in the meantime shall be subject to the decision to be taken by the opposite parties no.1 and 3 to the writ petition, as directed hereinabove.

4. As it appears, the State authorities have filed this writ appeal challenging the order dated 07.11.2023 passed by the learned Single Judge as a matter of routine, as if any order passed by the learned Single Judge is amenable to writ appeal. But that is not the purpose for which the foras have been made available under the Letters Patent and the Odisha High Court Order, 1948. In any case, looking at the order passed by the learned Single Judge it is made clear that there is no decision, save and except remanding the matter to the authority to pass appropriate order. But the State authorities have challenged the same by way of this writ appeal. Therefore, this Court is not inclined to entertain this writ appeal and confirms the order passed by the learned Single Judge, so that the authorities can apply their mind and pass appropriate order in accordance with law.

5. Accordingly, the writ appeal stands dismissed.

Sd/- Dr. B. R. Sahoo, Aet
Sd/- M. S. Raman, J

Copy to
Prabhu
2/2/24

C-11 (CG)
DR (3)
List of names

B-0

4.4.24

Count - 11
(old)

IN THE HIGH COURT OF ORISSA, CUTTACK.

MENTION MEMO

1. NUMBER OF THE CASE : CONTC NO - 9525/2023
2. NAME OF THE PARTIES : With ConTC No. 1739/2024
Narmada Dars ... PETITIONER(S)/APPELLANT(S)
VRS ... OPP.PARTY(S)/RESPONDENT(S)
3. PARTY SEEKING POSITION : State of Orissa Dars
PETITIONER/OPP.PARTY/
RESPONDENT/ INTERVENOR/
APPELLANT
4. NAME OF THE ADVOCATE OF THE PARTY SEEKING POSITION : Mr. S.D. Routray
5. NAME OF THE ADVOCATES APPEARING FOR THE OPP.PARTIES : Govt
6. MENTION FOR : for admission ADMISSION, ORDER, STAY, HEARING
7. REASONS FOR THE MENTION : An application filed by the petitioner for noncompliance for the court order. this case is send to 22.3.24
8. DATE ON WHICH POSITION IS SOUGHT : 05.04.24
9. WHETHER ANY CAVEAT HAS BEEN FILED OR NOT : Y
10. INDICATE WHETHER THE MATTER IS IN THE LIST BEFORE ANY OTHER BENCH. : N

CUTTACK

DATE: 4.4.2024

AK
SIGNATURE OF THE ADVOCATE.

Sent to list on 21/03/24, with CONTC 1077/24, 1079/24

mb. S. D. Routray, Adv.

**IN THE HIGH COURT OF ORISSA AT
CUTTACK**

CONTC No. 9525 of 2023

(Arising out of W.P.(C) No.36009 of 2023,
Disposed of on 07.11.2023)

Narmada Das & othersPetitioners

-Versus-

Shalini Pandit, IAS.

Commissioner -cum- Secretary to Govt.

H&FW Dept., Odisha & others ...Contemnors
/ Opp. Parties

I N D E X

Sl. No. Description of documents. Pages.

1. Compliance Affidavit filed
by the Opp. Party /
Contemnor No. 1. 1 - 11
2. Annexure-A/1.
Copy of Order No. 29094
Dt.24.11.2023. 12 - 15
3. Annexure-B/1.
Copy of Order No. 30621
Dt.12.12.2023. 16
4. Annexure-C/1.
Copy of Order No. 5675
Dt.02.03.2024. 17 - 24

R
2/4/24

CUTTACK

DATE: 28.03.2024

ADDL. GOVY. ADVOCATE

CONTC No. 9525 of 2023

IN THE MATTER OF:

-Versus-

COMPLIANCE AFFIDAVIT FILED BY
CONTEMNOR/ OPPOSITE PARTY NO. 1

I, Shalini Pandit, aged about 49 years, daughter of Mr. Arvind Pandit, at present working as the Commissioner-cum- Secretary to Government of Odisha, Health & Family Welfare Department, Lok Seva Bhawan, Bhubaneswar, District- Khurda do solemnly affirm and state as follow:

Shirley Parlett

1. That, I am the deponent of this Affidavit and I have gone through the averments in the CONTC Petition filed by the Petitioner and understood the contents of the same.
2. That, this contempt petition has been filed by the petitioner alleging non-compliance of the order dated-07.11.2023 of this Hon'ble Court passed in WP (C) No. 36009 of 2023.
3. That, it is further respectfully submitted that the Hon'ble Court vide their order dated-07.11.2023 disposed of the WP (C) No- 36009 of 2023. The operative portion of the order is quoted below:

"Having heard the learned counsel appearing for the petitioners and the learned Addl. Standing Counsel for the State-Opposite Parties, and on a careful examination of the background facts, this court observes that the candidature of petitioners has been disqualified on the ground that the petitioners were not having a valid registration certificate by the Odisha Nursing Council. On perusal of the record it appears that, the petitioners after competition of the

Shalini Pandit

course from recognized government institutions, had applied for registration with the Odisha Nursing Council. Subsequently they have been granted a valid registration certificate by such counsel. Further, it appears that such registration certificate issued by the counsel is required to be renewed from time to time. So far the present petitioners are concerned, in their case, the renewal of their registration certificate fell due during the time when the advertisement was published under Annexure-1 to the writ application. However, it is not disputed that the registration certificate issued in favour of the petitioner by the Odisha Nursing Council was duly renewed, and that such renewal means revival of the original registration without any break, and the registration certificate originally issued by the authority continuous to remain valid. Therefore it cannot be said that the petitioner were not having a valid registration certificate. it also appears that the registration number assigned to the petitioners also remains the same even after the renewal of such registration certificates. Further, on

Shalini Pandit

x

perusal of the facts of the present case, this court is also of the observation that, merely because the registration certificate is required to be renewed after a certain interval, it cannot be presumed that the same can valid certificate is in process of renewal. Moreover it is settled law that when a certificate is renewed, the certificate continues to remain valid, from the date of its initial issue, until the same is lawfully cancelled or terminated. From the records of this case, it reveals what the opposite parties have not stated that the registration certificate has either been cancelled or terminated. Therefore, the conduct of the Opposite Parties in holding that the petitioners were not having valid registration in terms by the advertisement is not correct and the same is too harsh. Moreover, this court also observed that the power under Rule 8(4) having been exercised by the government earlier as it appears from the additional affidavit, there is no bar in exercising such power of relaxation in genuine and appropriate cases. In view of the aforesaid analysis as well as keeping

Shalini Pandit

x

in view factual background of the present case this court deems it proper to dispose of the present writ application by remanding the matter to the Opposite Parties No. 1 & 3 to reconsider the whole issue again keeping in view aforesaid observations made by this court as well as the documents under Annexure-10 & 11 to the Additional Affidavit filed by the petitioner. Let the petitioner approach the opposite party no. 1 & 3 along with certified copy of this order within a period of two weeks from today. In such event opposite party no. 1 & 3 shall do well to consider the same as directed by this Court hereinabove and take a final decision within two weeks thereafter. The decision so taken be communicated to the petitioner within a week thereafter. Any appointment made in the meantime shall be subject to the decision to be taken by the Opposite Party 1 & 3 as directed hereinabove."

Shalini Pandit

4. That, pursuant to the order dated-07.11.2023 of the Single Bench of the Hon'ble High Court, the Commissioner-cum-Secretary to Government,

Health and Family Welfare Department (OP No-1) has considered the prayers of the Petitioners to include their names in the list of qualified candidates for recruitment to the post of Nursing Officers, 2023 strictly as per rules & relevant provisions and rejected the same by issuing the speaking orders No-29094, dated-24.11.2023.

Copy of the order No-29094, dated-24.11.2023 is annexed herewith and marked as ANNEXURE- A/1.

5. That, being aggrieved, the petitioner has filed the WP(C) No-39529 of 2023 before the Hon'ble High Court with following prayers:-

- (i) To quash the reject list dated-20.10.2023 under Annexure-9 so far as the petitioners are concerned and the impugned order dated-24.11.2023 under Annexure-12.
- (ii) To consider the case of petitioners for appointment as Nursing Officers pursuant to the advertisement under Annexure-1 as per merit.

6. That, Hon'ble High Court vide order dated-05.12.2023 passed in WP(C) No-39529 of 2023 has directed as follows:-

Shobhi Pandit
x

Para-9-Accordingly, list this matter on 15.12.2023 along with CONTC No.9525 of 2023, by which date if the Opposite Parties fail to implement the order dated 07.11.2023, this Court would be constraint to issue notice to the contempt to the Opposite Parties. In the aforesaid Contempt application filed by the Petitioners alleging violation of the order dated 07.11.2023.

Para-10- It is further made clear that in the event the Opposite Parties fail to take immediate steps of compliance order passed in W.P.(C) No.36009 of 2023 disposed of 07.11.2023, they will be asked to explain as to why they shall not be proceeded for willful and violation of this Court order by issuing notice in the connected contempt application."

Shalini Bhardit
x

7. That, pursuant to order dated-05.12.2023 of the Hon'ble High Court passed in WP(C) No-39529 of 2023, the Learned Additional Government Advocate advised to recall the Speaking order No-29094, dated-24.11.2023 and to file the Writ Appeal against the order dated-07.11.2023 of the

Hon'ble High Court. Accordingly, the OP No-1 vide order No-30621, dated-12.12.2023 has recalled the Speaking order No-29094, dated-24.11.2023 and filed the Writ Appeal No-09 of 2024 before the Hon'ble High Court against the order dated-07.11.2023.

Copy of the order No-30621, dated-12.12.2023 is annexed as **Annexure-B/1**.

8. That, the Hon'ble High Court vide order dated-01.02.2024 dismissed the Writ Appeal No-09 of 2024 with following directions:

Para-3-As it appears, the State authorities have filed this writ appeal challenging the order dated 07.11.2023 passed by the learned Single Judge as a matter of routine, as if any order passed by the learned Single Judge is amenable to writ appeal. But that is not the purpose for which the fora have been made available under the Letters Patent and the Odisha High Court Order, 1948. In any case, looking at the order passed by the learned Single Judge, it is made clear that there is no decision, save and except remanding the matter to the authority to pass

Shobini Pandey
x

appropriate order. But the State authorities have challenged the same by way of this writ appeal. Therefore, this Court is not inclined to entertain this writ appeal and confirms the order passed by the learned Single Judge, so that the authorities can apply their mind and pass appropriate order in accordance with law.

9. That, pursuant to order dated-01.02.2024 of the Hon'ble High Court passed in Writ Appeal No-09 of 2024, the OP No-1 has examined & considered again the prayer of the petitioners keeping in view the orders dated-07.11.2023 of the Hon'ble High Court passed in WP (C) No-36009 of 2023 with reference to the relevant rules & regulations and rejected the prayers of the Petitioners to include in the list of qualified candidates for recruitment to the post of Nursing Officers, 2023 by issuing the speaking order No.5675, dated 02.03.2024 and communicated to the petitioners.

x Shalini Kundt

Copy of the order No.5675, dated 02.03.2024 is annexed as **Annexure-C/1**.

10. That, the deponent has got the highest regard to the kind orders of this Hon'ble Court and never tried to

flout the orders passed by this Hon' ble Court and holds their Lordships in high esteem.

11. That, in view of the facts stated and submission made in the foregoing paragraphs, the Hon'ble Court may graciously be pleased to pass order to drop the present contempt proceedings or may pass any such other orders (s)/directions as deemed fit.

12. That, the statements made above in Para-1 to Para-2 are true to the best of my knowledge and belief. The statements made in Para-3 to 6 and 8 & 9 are true to my information derived from the records. The statements made in para-7 are based on the advice of the Learned Additional Government Advocate in Office of the Learned Advocate General, Odisha. The statements made in Para-10 & Para-11 are my submissions to this Hon'ble Court. I believe the information to be true as per available official records.

Shalini Khandit
28/03/2024

DEPONENT

Commissioner-cum-Secretary
Health & F.W. Deptt.

Solemnly affirmed before me by
Shalini Pandit who is identified before me by self I
personally know.

This the 28th day of March, 2024.

Bhubaneswar

Dt- 28.03.2024

NOTARY PUBLIC, BHUBANESWAR

CERTIFICATE

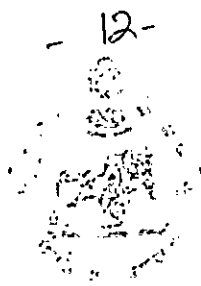
Certified that due to want of cartridge papers,
plain papers are used.

Cuttack

Dt: 28/03/2024



ADDL. GOVT. ADVOCATE



ANNEXURE - A/1

Government of Odisha
Health and Family Welfare Department

...

ORDER

-0192-2023
No HFW-MS-III-CASE-/H ' 2994 Date - 24.11.2023

Whereas, perused the common order dated-07.11.2023 and dated-08.11.2023 passed by the Hon'ble High Court of Orissa in WP(C) No-36009 of 2023 filed by Narmada Dash & 07 others, WP(C) No-36238 of 2023 filed by Madhusmita Jena & 74 Others and WP(C) No-36239 of 2023 filed by Rojalin Dash & 02 others, wherein the Hon'ble High Court has disposed of the writ petitions with following observations and directions.

Having heard the learned counsel appearing for the petitioners and the learned Addl. Standing Counsel for the State-Opposite Parties, and on a careful examination of the background facts, this court observes that the candidature of petitioners has been disqualified on the ground that the petitioners were not having a valid registration certificate by the Odisha Nursing Council. On perusal of the record it appears that, the petitioners after completion of the course from recognized government institutions, had applied for registration with the Odisha Nursing Council. Subsequently they have been granted a valid registration certificate by such counsel. Further, it appears that such registration certificate issued by the counsel is required to be renewed from time to time. So far the present petitioners are concerned, in their case, the renewal of their registration certificate fell due during the time when the advertisement was published under Annexure-1 to the writ application. However, it is not disputed that the registration certificate issued in favour of the petitioner by the Odisha Nursing Council was duly renewed, and that such renewal means revival of the original registration without any break, and the registration certificate originally issued by the authority continuous to remain valid. Therefore it cannot be said that the petitioner were not having a valid registration certificate. It also appears that the registration number assigned to the petitioners also remains the same even after the renewal of such registration certificates. Further, on perusal of the facts of the present case, this court is also of the observation that, merely because the registration certificate is required to be renewed after a certain interval, it cannot be presumed that the same can valid certificate is in process of renewal. Moreover it is settled law that when a certificate is renewed, the certificate continues to remain valid, from the date of its initial issue, until the same is lawfully cancelled or terminated. From the records of this case, it reveals what the opposite parties have not stated that the registration certificate has either been cancelled or terminated. Therefore, the conduct of the Opposite Parties in holding that the petitioners were not having valid registration in terms by the advertisement is not correct and the same is too harsh. Moreover, this court also observed that the power under Rule 8(4) having been exercised by the government earlier as it appears from the additional

74/11

True Copy Attested

Section Officer
Health & F.W. Deptt.

affidavit, there is no bar in exercising such power of relaxation in genuine and appropriate cases. In view of the aforesaid analysis as well as keeping in view factual background of the present case this court deems it proper to dispose of the present writ application by remanding the matter to the Opposite Parties No. 1 & 3 to reconsider the whole issue again keeping in view aforesaid observations made by this court as well as the documents under Annexure-10 & 11 to the Additional Affidavit filed by the petitioner. Let the petitioner approach the opposite party no. 1 & 3 along with certified copy of this order within a period of two weeks from today. In such event opposite party no. 1 & 3 shall do well to consider the same as directed by this Court hereinabove and take a final decision within two weeks thereafter. The decision so taken be communicated to the petitioner within a week thereafter. Any appointment made in the meantime shall be subject to the decision to be taken by the Opposite Party 1 & 3 as directed hereinabove.

And whereas, pursuant to the above orders of the Hon'ble High Court, the above Petitioners have filed their representations along with copy of the above orders of the Hon'ble High Court to the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) as well as to the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) with request to include their names in the list of qualified candidates for recruitment to the post of Nursing Officer, 2023

And whereas, the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) vide letter dated-22.11.2023 has forwarded the representations of the above Petitioners to the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) to take the appropriate decision in the matter

And whereas, perusal of the representations of the Petitioners revealed that they have requested to consider their cases for appointment as Nursing Officers pursuant to the advertisement under Annexure-1 as per merit within a stipulated time to be fixed by this Hon'ble Court.

And whereas, perusal of the records revealed that the Annexure-1 of the writ petition is the advertisement for recruitment of the Nursing Officer published by the OP No-3. The Annexure-10 of the writ petition is the Notification No-33172, dated-18.12.2019 relating to issuance of the guidelines on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019. Further, the Annexure-11 of the writ petition is the corrigendum No-128, dated-02.01.2020 regarding modification of the point No-3, 7 & 8 of the Notification dated-18.12.2019 under Annexure-10.

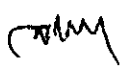
And whereas, pursuant to the above orders of the Hon'ble High Court, the OP No-1 has formed a Committee vide this Department order No-28918, dated-23.11.2023 to examine the cases of the Petitioners following the relevant provisions of law as well as the relevant records and to submit their report in the matter.

And whereas, the Committee examined the cases in pursuance of the relevant provisions of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019, relevant records along with the Advertisement under Annexure-1 and the documents under Annexure-10 & 11 of the writ petition and submitted their report.

And whereas, perused the report of the Committee and the advertisement under Annexure-1 and other documents under Annexure-10 & 11 along with the relevant provisions of the Cadre Rule and relevant records.



For the Commissioner-cum-Secretary to Government, Health and Family Welfare Department, Bhubaneswar



2023.11.23

For the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar

And whereas, pursuant to the provision of Rule-8(3) of Odisha Nursing Service (Method of Recruitment and conditions of service) rules 2019 and amendment rules 2020, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) has been empowered to make the detail scrutiny of the application forms, the manner of submission of application, the documents required to be accompanied with the application form and fee required.

And whereas, as per rule-9(xi) in order to be eligible for direct recruitment to the post of Staff Nurse, a candidate must have registered her/his name in Nursing Council in the state and have possessed valid Registration Certificates as on the date of advertisement. The Petitioners have referred this Department vide No.33172 dated 18.12.2019 under Annexure-10 relating to issuance of the guidelines on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019, wherein there is a relaxation of six months for production of valid Registration Certificates, though the said Notification dated-18.12.2019 has already been amended in 2020 (came into force with effect from 04.11.2020) after issuance of this letter as well as corrigendum dated-02.01.2020 under Annexure-11. As such, subsequent to Notification of the amended cadre rule, the letter issued before this amendment ceased to be in force.

And whereas, the Petitioners have not mentioned fresh / renewed at the space meant for registration certificates on their applications. It has been clearly notified in the advertisement that application is valid after verification of all uploaded documents. The applicants in fact suppressed regarding renewal of registration certificates in their application forms and submitted that they possess valid Registration Certificates as on the date of advertisement, because of which, i.e., suppression of fact, their cases have been considered and they have been selected. This is against the conditions stipulated in the advertisement, wherein it was stipulated that if at any stage any misinterpretation / suppression / furnishing of wrong information / manipulation by candidates shall result in cancellation/disqualification of his / her candidature at any stage of the recruitment process even after issue of appointment order.

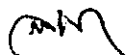
And whereas, if the cases of the candidates are considered at this stage, it will be a great injustice to those candidates, who though in similar footing did not apply for the posts abiding by the conditions stipulated in the advertisement that they should possess valid registration certificate as on the date of advertisement. Further, the process will be unending and whoever, renews a certificate at any stage can claim validity of the certificate on the basis of its continuance.

And whereas, the Committee did not dispute the fact of validity of a renewed certificate with the same Registration Number, but of the view that, this process of renewal should have been completed before the date of advertisement as per the conditions of advertisement as well as provision of Cadre Rules.

And whereas, the Commissioner-cum-Secretary to Government (OP No-1) as well as the OP No-3 have not been given the opportunities to appraise the above facts through the Counter affidavit before the Hon'ble High Court prior to passing of the above orders by the Hon'ble High Court.

And whereas, especially the views of the Committee, the advertisement under Annexure-1 and other documents under Annexure-10 & 11 along with the relevant provisions of the Cadre Rule and relevant records were examined in detail and reconsidered and found to be reasonable and in order as per the prevailing norm of Government.

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Therefore, the prayers of the Petitioners to include in the list of qualified candidates for recruitment to the post of Nursing Officers, 2023 have not merit for consideration and hence, the same is rejected being devoid of any merit. Supply the copy of this order to the Petitioners.

Commissioner-cum-Secretary to Government

Memo No- 29095 dated 24.11.2023

Copy forwarded to the Advocate General, Odisha, Cuttack for information and necessary action.

Additional Secretary to Government

Memo No- 29096 dated 24.11.2023

Copy forwarded to the Director, Health Services, Odisha, Bhubaneswar / Director, Nursing, Odisha, Bhubaneswar for information and necessary action.

Additional Secretary to Government

Memo No- 29097 dated 24.11.2023

Copy forwarded to the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar for information and necessary action.

Additional Secretary to Government

Memo No- 29105 dated 24.11.2023

Copy forwarded to Narmada Das, D/o Adikanda Das, At-Gda, PO/PS-Mahanga, District-Cuttack and Others for information.

Additional Secretary to Government

Memo No- 29106 dated 24.11.2023

Copy forwarded to Rojalini Das, W/o Sangram Kumar Parida, At-Chatol, PO-Dhunpur, Dist-Jagatsinghpur and Others for information.

Additional Secretary to Government

Memo No- 29107 dated 24.11.2023

Copy forwarded to Madhusmita Jena, D/o Rashbihari Jena, At/PO-Bartana, PS-Jaleswar Dist-Balasore and Others for information.

Additional Secretary to Government

Memo No- 29108 dated 24.11.2023

Copy forwarded to Priyankarani Jena, C/o-Isha Dutta Lima, At-Church Street, PO-Badapada, Dist-Gajapati and Others for information.

Additional Secretary to Government

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ANNEXURE-B/1

GOVERNMENT OF ODISHA
HEALTH & FAMILY WELFARE DEPARTMENT

ORDER

No.HFW-MS-III-CASE-0192-2023 /H. 30621 Dated. 12th Dec, 2023

Pursuant to the order dated-05.12.2023 passed by the Hon'ble High Court, Orissa in W.P.(C) No.39529/2023 filed by Narmada Das & Others and W.P.(C) No-39530/2023 filed by Priyanka Rani Jena & Others as well as the submissions made by the Learned Additional Standing Counsel before the Hon'ble High Court for the State Opposite Parties on 05.12.2023, the Order No-29094, dated-24.11.2023 of Health & Family Welfare Department is hereby recalled.

Memo - 30622 dated 12th dec 23
Commissioner-cum-Secretary to Government
Copy forwarded to the Advocate General, Odisha, Cuttack for information and necessary action.

Memo No- 30623 dated 12th dec 23
Additional Secretary to Government
Copy forwarded to the Director, Health Services, Odisha, Bhubaneswar / Director, Nursing, Odisha, Bhubaneswar / Secretary, OSSSC, Bhubaneswar for information and necessary action.

Memo No- 30624 dated 12th dec 23
Additional Secretary to Government
Copy forwarded to Narmada Das, D/o Adikanda Das, At-Oda, PO/PS- Mahanga, District- Cuttack / Rojalini Das, W/o Sangram Kumar Parida, At- chatol, PO- Dhunpur, District- Jagatsinghpur / Madhusmita Jena, D/o Rashbihari Jena, At/PO- Bartana, PS- Jaleswar, Dist- Balasore / Priyankarani Jena, C/o-Isha Dutta Lima, At-Church Street, PO- Badapada, Dist-Gajapati for information.

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ADVOCATE



GOVERNMENT OF ODISHA
HEALTH & FAMILY WELFARE DEPARTMENT

No. HFW-MSIII-CASE-0190-2023 5675

/H&F.W. Dated, 02.03.2024

ORDER

The State of Odisha and another filed the Writ Appeal No-09 of 2024 before the Division Bench of the Hon'ble High Court against the order dated 07.11.2023 of the Single Bench passed in WP(C) No-36009 of 2023 filed by Narmada Das & Others.

2. Hon'ble High Court vide order dated-01.02.2024 dismissed the Writ Appeal No-09 of 2024 filed by the State of Odisha and another with following directions:

"Para-4-As it appears, the State authorities have filed this writ appeal challenging the order dated 07.11.2023 passed by the learned Single Judge as a matter of routine, as if any order passed by the learned Single Judge is amenable to writ appeal. But that is not the purpose for which the fora have been made available under the Letters Patent and the Odisha High Court Order, 1948. In any case, looking at the order passed by the learned Single Judge it is made clear that there is no decision, save and except remanding the matter to the authority to pass appropriate order. But the State authorities have challenged the same by way of this writ appeal. Therefore, this Court is not inclined to entertain this writ appeal and confirms the order passed by the learned Single Judge, so that the authorities can apply their mind and pass appropriate order in accordance with law."

3. Whereas, the Single Bench of the Hon'ble High Court vide order dated-07.11.2023 passed in WP(C) No-36009 of 2023 filed by Narmada Dash & others has disposed of the writ petition with following observations and directions.

"Having heard the learned counsel appearing for the petitioners and the learned Addl. Standing Counsel for the State-Opposite Parties, and on a careful examination of the background facts,

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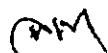
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this court observes that the candidature of petitioners has been disqualified on the ground that the petitioners were not having a valid registration certificate by the Odisha Nursing Council. On perusal of the record it appears that, the petitioners after competition of the course from recognized government institutions, had applied for registration with the Odisha Nursing Council. Subsequently they have been granted a valid registration certificate by such council. Further, it appears that such registration certificate issued by the council is required to be renewed from time to time. So far the present petitioners are concerned, in their case, the renewal of their registration certificate fell due during the time when the advertisement was published under Annexure-1 to the writ application. However, it is not disputed that the registration certificate issued in favour of the petitioner by the Odisha Nursing Council was duly renewed, and that such renewal means revival of the original registration without any break, and the registration certificate originally issued by the authority continuous to remain valid. Therefore it cannot be said that the petitioner were not having a valid registration certificate. it also appears that the registration number assigned to the petitioners also remains the same even after the renewal of such registration certificates. Further, on perusal of the facts of the present case, this court is also of the observation that, merely because the registration certificate is required to be renewed after a certain interval, it cannot be presumed that the same can valid certificate is in process of renewal. Moreover it is settled law that when a certificate is renewed, the certificate continues to remain valid, from the date of its initial issue, until the same is lawfully cancelled or terminated. From the records of this case, it reveals what the opposite parties have not stated that the registration certificate has either been cancelled or terminated. Therefore, the conduct of the Opposite Parties in holding that the petitioners were not having valid registration in terms by the advertisement is not correct and the same is too harsh. Moreover, this Court also observed that the power under Rule 8 (4) having been exercised by the government earlier as it appears from the additional affidavit, there is no bar in exercising such power of relaxation in genuine and appropriate cases. In view of the aforesaid analysis as well as keeping in view factual background of the present case this court deems it proper to dispose of the present writ application by



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remanding the matter to the Opposite Parties No. 1 & 3 to reconsider the whole issue again keeping in view aforesaid observations made by this court as well as the documents under Annexure-10 & 11 to the Additional Affidavit filed by the petitioner. Let the petitioner approach the opposite party no. 1 & 3 along with certified copy of this order within a period of two weeks from today. In such event opposite party no. 1 & 3 shall do well to consider the same as directed by this Court hereinabove and take a final decision within two weeks thereafter. The decision so taken be communicated to the petitioner within a week thereafter. Any appointment made in the meantime shall be subject to the decision to be taken by the Opposite Party 1 & 3 as directed hereinabove."

4. In view of the above-said order dated 01.02.2024 of the Division Bench of High Court, the claim of the Petitioners namely Narmada Das and others have been examined as given below.

5. Narmada Das and others filed WP(C) No-36009 of 2023 before the Hon'ble High Court of Orissa with prayer to quash the reject list dated-20.10.2023 under Annexure-9 and consider their appointment as Nursing Officers pursuant to the advertisement under Annexure-1 as per merit.

Annexure-1 of the WP(C) No-36009 of 2023 is the Advertisement published by the Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) on 21.01.2023 inviting online applications within the period from 27.01.2023 to 17.02.2023 for recruitment of 7483 number of district cadre Group-C posts of Nursing Officers in all 30 district establishments and 13 Medical College and Hospitals pursuant to the provisions of Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rules, 2019 and subsequent Amendment Rules, 2020, the Odisha Grant of Weightage in marks in the Recruitment for short-term COVID-19 Healthcare workers Rules, 2022 and the Odisha Group-B, Group-C and Group-D posts (Repeal and Special Provisions) Rules, 2022.

Annexure-9 of the WP(C) No-36009 of 2023 is the reject list dated-20.10.2023 published by the Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3), wherein the name of the petitioners are not found place.

Annexure-10 of the WP(C) No-36009 of 2023 is the Notification No-33172, dated-18.12.2019 relating to issuance of the guidelines on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019. Further, the Annexure-11 of the writ petition is the corrigendum No-128, dated-02.01.2020 regarding modification of the point No-3, 7 & 8 of the Notification dated-18.12.2019 under Annexure-10.

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6. The Petitioners had submitted their representations along with copy of the above orders of the Hon'ble High Court to the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) as well as to the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) with request to include their names in the list of qualified candidates for recruitment to the post of Nursing Officer, 2023. The Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) vide letter dated-22.11.2023 had forwarded their representations to the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) to take the appropriate decision in the matter.

7. Pursuant to the order dated-07.11.2023 of the Single Bench of the Hon'ble High Court, the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) vide order No-29094, dated-24.11.2023 has rejected the prayers of the Petitioners to include their names in the list of qualified candidates for recruitment to the post of Nursing Officers, 2023. Subsequently, the OP No-1 vide order No-30621, dated-12.12.2023 has recalled the rejection order No-29094, dated-24.11.2023 pursuant to the order dated-05.12.2023 of the Hon'ble High Court passed in WP(C) No-39529 of 2023 filed by Narmada Das and others as well as the submissions made by the Learned Additional Standing Counsel before the Hon'ble High Court.

8. Advertisement was issued by Odisha Sub-ordinate Staff Selection Commission (OSSSC) inviting applications for recruitment to the district. cadre Group-C Posts of Nursing Officer in 30 district establishments and 13 Medical College and Hospitals under Government of Odisha. In the said advertisement it was clearly mentioned that all the eligibility conditions should have been fulfilled as on the date of Advertisement. The OSSSC took steps for selection of Nursing Officers strictly in accordance with the Advertisement. The candidates also appeared in the office of the concerned CDM & PHO of their respective districts for verification. At the time of verification, the candidature of some candidates were found ineligible on various grounds. Some candidates had not renewed their registration certificate after expiry of the stipulated date of 5 years and applied for the post of Nursing Officer. After scrutiny on 20.10.2023, the OSSSC issued a list of candidates disqualified for not having renewal of the registration certificates after expiry of stipulated period of 05 years under Clause-3(A)(v) of the Advertisement under Annexure-1 to the writ petition.

9. Pursuant to order dated-07.11.2023 of the Hon'ble Court passed in WP(C) No-36009 of 2023 filed by the Petitioners, the OP No- I has formed a Committee vide this Department order No-28918, dated-23.11.2023 to examine the cases of the Petitioners following the relevant provisions of law as well as the relevant records and to submit their report in the matter. The Committee examined the cases in



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Health & F.W. Deptt.

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pursuance of the relevant provisions of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019 and subsequent Amendment Rules, 2020, relevant records along with the Advertisement and the documents and submitted their report. The OP No-1 has carefully examined the report of the Committee and the advertisement and other documents along with the relevant provisions of the Cadre Rule and relevant records and found as follows:-


(a) Pursuant to the provision of Rule-8(3) of Odisha Nursing Service (Method of Recruitment and conditions of service) Rules 2019 and Amendment Rules 2020, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar has been empowered to make the detailed scrutiny of the application forms, the manner of submission of application, the documents required to be accompanied with the application form and fee required.

(b) As per rule-9(xi) in order to be eligible for direct recruitment to the post of Staff Nurse, a candidate must have registered her/his name in Nursing Council in the state and have possessed valid Registration Certificates as on the date of advertisement. The Petitioners had referred to this Department Notification No-33172, dated-18.12.2019 relating to issuance of the guidelines on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019, wherein there is a relaxation of six months for production of valid Registration Certificates, though the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rules, 2019 have already been amended in the year 2020 (came into force vide Gazette Notification dated-04.11.2020). Pursuant to issuance of the above Rules vide Gazette Notification dated-04.11.2020, the Notification dated-18.12.2019 under Annexure-10 to the writ petition and the corrigendum dated-02.01.2020 under Annexure-11 to the writ petition arising out of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rules, 2019 have no locus standi and ceased to be in force from 04.11.2020.

(c) The Petitioners have not mentioned fresh / renewed at the space meant for registration certificates on their applications. It has been clearly notified in the advertisement that application is valid after verification of all uploaded documents. The Petitioners in fact suppressed regarding renewal of registration certificates in their application forms and submitted that they possess valid Registration Certificates as on the date of advertisement, because of which. i.e.. suppression of fact, their cases have been considered and they have been selected. This is against the conditions stipulated in the advertisement, wherein it was stipulated that, if at any stage any misinterpretation / suppression / furnishing of wrong information / manipulation by candidates shall result in cancellation / disqualification of his / her candidature at any stage of the recruitment process, even after issue of appointment order.

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(d) If the cases of the Petitioners are considered at this stage, it will be a great injustice to those candidates, who though in similar footing did not apply for the posts abiding by the conditions stipulated in the advertisement that they should possess valid registration certificate as on the date of advertisement. Further, the process will be unending and whoever, renews a certificate at any stage can claim validity of the certificate on the basis of its continuance.

(e) The OP No-1 did not dispute the fact of validity of a renewed certificate with the same Registration Number, but of the view that, this process of renewal should have been completed before the date of advertisement as per the conditions of advertisement as well as provision of Cadre Rules. There should be no gap in between the expiry of period of 5 years as validity and the date of renewal. Since the matter was disposed of at the stage of fresh admission, the OP No-1 herein had no occasion to bring the relevant facts to the notice of the Hon'ble Single Judge, regarding suppression of facts by the Petitioners and the fact that the Petitioners deliberately mislead the Hon'ble Single Judge.

(f) The advertisement under Annexure-I to the writ petition and other documents (under Annexure-10 & 11 of the additional affidavit to the writ petition) along with the relevant provisions of the Cadre Rule and relevant records were examined in detail and reconsidered and found to be reasonable and in order as per the prevailing, norm of Government. Therefore, the prayers of the Petitioners to include in the list of qualified candidates for recruitment to the post of Nursing Officers, 2023 have been rejected by the OP No-1 being devoid of any merit and communicated to the Petitioners vide orders dated-24.11.2023 under Annexure-12 to the writ petition.

10. The OSSSC has allowed all candidates, applied for the post of Nursing Officers, to appear the examination by issuing the admit cards including the Respondents. But during verification of the original documents by the Commission as advertised for the post of Nursing Officers pursuant to the advertisement dated-21.01.2023, it was found that the Petitioners have not mentioned fresh / renewed at the space meant for registration certificates on their applications. It has been clearly notified in the advertisement that application is valid after verification of all uploaded documents. The Petitioners in fact suppressed that they did not renew their registration certificates after expiry of continuance period of 05 years in their application forms and submitted that they possess valid Registration Certificates as on the date of advertisement, because of which, i.e., suppression of fact, their cases have been considered and they have been selected. In the advertisement, it was stipulated that if at any stage any misinterpretation suppression / furnishing of wrong information / manipulation by candidates shall result in cancellation / disqualification of his / her candidature at any stage of the recruitment process, even after issue of appointment order.

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11. The candidature of the Petitioners were rejected for not having renewal of their Registration Certificate after completion of 05 years from the date of initial issue under Clause-3 (A) (v) of the advertisement of Nursing Officer-2023 on 20.10.2023 as per rule-9(xi) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019 and subsequent Amendment Rules, 2020 wherein it has been stipulated that a candidate must have registered her/his name in Nursing Council in the state and have possessed valid Registration Certificates as on the date of advertisement.

12. with regards to the claim of the petitioners on issuance of the guidelines vide order No.33172 dated 18.12.2019 on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019, it is pertinent to mention here that there is a relaxation of six months for production of valid Registration Certificates, but the said Notification dated-18.12.2019 has already been amended in 2020 (came into force with effect from 04.11.2020) after issuance of this letter as well as corrigendum dated-02.01.2020. As such, subsequent to Notification of the amended cadre rule, the letter issued before this amendment ceased to be in force.

13. The Petitioners appearing for the post of Nursing Officer pursuant to an Advertisement ought to have been more vigilant and should have taken prompt steps to qualify themselves to the conditions of the Advertisement. The Law is well settled that the advertisement is supreme and any deviation of the Advertisement would amount to changing the Cadre Rules. If the Petitioners at this juncture are allowed, the same would cause immense prejudice to many other similarly situated candidates and as such the process of recruitment would be linger for the sheer fault of the Petitioners and such a situation should not be allowed to them.

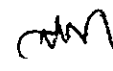
14. The above views of the Committee, the advertisement under Annexure-1 and other documents under Annexure-10 & 11 along with the relevant provisions of the Cadre Rules and relevant records were examined in detail and reconsidered and found to be reasonable and in order as per the prevailing statutory norm of Government.

Therefore, the prayers of the Petitioners to include in the list of qualified candidates for recruitment to the post of Nursing Officers, 2023 have no merit for consideration and hence, the same is rejected being devoid of any merit.

Supply the copy of this order to the Petitioners.


02/03/24
Commissioner-cum-Secretary to Government

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Memo No- 5676 dated 02.03.2024

Copy forwarded to the Advocate General, Odisha, Cuttack for information and necessary action.

Additional Secretary to Government

Memo No- 5677 dated 02.03.2024

Copy forwarded to the Director, Health Services, Odisha, Bhubaneswar / Director, Nursing, Odisha, Bhubaneswar for information and necessary action.

Additional Secretary to Government

Memo No- 5678 dated 02.03.2024

Copy forwarded to the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar for information and necessary action.

Additional Secretary to Government

Memo No- 5679 dated 02.03.2024

Copy forwarded to Narmada Das, D/o Adikanda Das, At-Oda, PO/PS-Mahanga, District-Cuttack and Others for information.

Additional Secretary to Government

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EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1476, CUTTACK, SATURDAY, NOVEMBER 28, 2020/MARGASIRA 7, 1942

HEALTH & FAMILY WELFARE DEPARTMENT

NOTIFICATION

The 4th November, 2020

No. 25029—PT1-HFW-MSIII-MSNG3M-0035/2016/H&F.W.— In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Odisha is pleased to make the following rules to amend the Odisha Nursing Service (Methods of Recruitment and Conditions of Service) Rules, 2019, namely:—

1. Short Title and Commencement :- (1) These rules may be called the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Amendment Rules, 2020.

(2) They shall come into force on the date of their publication in the *Odisha Gazette*.

2. In the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rules, 2019 (hereinafter referred to as the said rules); -

(i) for the words "Staff Nurse" wherever it occurs, the words "Nursing Officer" shall be substituted.

(ii) for the words "Assistant Matron" wherever it occurs, the words "Assistant Nursing Superintendent" shall be substituted.

(iii) for the words " Matron" wherever it occurs, the words " Deputy Nursing Superintendent" shall be substituted.

(iv) for the words "Chief Matron" wherever it occurs, the words "Nursing Superintendent" shall be substituted.

3. In the said rules, in rule 4, for sub-rule (1) excluding the proviso following sub-rule shall be substituted, namely:-

" (1) On the date of commencement of these rules, all the contractual Nursing Officers who have been duly recruited by the concerned Societies/Schemes for working in different fixed Healthcare Facilities only against

the person mentioned in the 3. contract in the programme implemented by the Action plan of the Society of India and have completed 10 years of satisfactory contractual service shall be deemed to be regular Government Employees as one time measure subject to fulfillment of eligibility criteria as prescribed under rule 5."

4. In the said rules, in rule 8, after sub-rule (4), the following sub-rule shall be inserted, namely:-

"(5)- The competitive examination shall be based on written test in the following manner, namely :-

- (a) Written test shall carry 100 marks comprising of objective type (multiple choice) questions only and the examination shall be of 2 hours duration.
- (b) There shall be negative marking for each wrong answer and for each wrong answer 0.25 marks shall be deducted from the marks awarded for correct answers.
- (c) 60% of the questions shall be based on the subjects taught in the syllabus, 25% of the questions shall be based on practical skills, 10% of the questions shall be on Arithmetic and 5% of the questions on English of High School Certificate standard.

5. In the said rules, in rule 9, in the second proviso, to clause (ii), for the figure "50", the figure "45" shall be substituted.

6. In the said rules, in rule 12, for, sub-rule (2) the following sub-rules shall be substituted, namely ; -

"(2) The gradation list of Nursing Officers shall be prepared by the Director, Nursing for consideration of their promotion to the level of Assistant Nursing Superintendent after consolidating the district wise lists.

(3) The gradation list of Assistant Nursing Superintendents shall be prepared by the Director, Nursing after obtaining the list from the districts.

(4) The gradation list of the Deputy Nursing Superintendents and Nursing Superintendents shall be prepared by the Director, Nursing on the basis of gradation list prepared and finalised for Asst. Nursing Superintendent and Deputy Nursing Superintendent respectively by the Director, Nursing.

(5) The gradation list of Assistant Director, Nursing (Clinical), Deputy Director, Nursing (Clinical) and Joint Director, Nursing (Clinical) shall be prepared by the Administrative Department in consultation with the Director, Nursing by 1st January of every year".

in the rule 13 for the following sub-clause namely :-

(A)- There shall be constituted a Departmental promotion Committee with the following members to consider the case of promotion to the post of Assistant Director, Nursing (Clinical), Deputy Director, Nursing (Clinical) and Joint Director, Nursing (Clinical) :

- | | |
|--|-------------------|
| (a) Secretary to Government,
Health & Family Welfare Department | : Chairman |
| (b) Special Secretary (T) to Government
Health & Family Welfare Department | : Member |
| (c) Director, Nursing, Odisha | : Member |
| (d) Additional Secretary/ Joint Secretary to Government
Health & Family Welfare Department
in charge of respective Establishment | : Member |
| (e) Representative of ST & SC Development
Department not below the rank of
Joint Secretary to Government | : Member |
| (f) Deputy Secretary/ Under Secretary
to Government in charge of respective
Establishment | : Member Convener |

(B)- There shall be constituted a Departmental promotion Committee with the following members to consider the case of promotion to the post of Assistant Nursing Superintendent, Deputy Nursing Superintendent and Nursing Superintendent, namely :-

- | | |
|---|-------------------|
| (a) Director, Nursing | : Chairman |
| (b) Representative of ST & SC Development Department
Not below the rank of Joint Secretary to Government | : Member |
| (c) Deputy Secretary/ Under Secretary to Government
in charge of respective Establishment | : Member |
| (d) Additional Director/ Joint Director, Nursing | : Member Convener |

8. In the said rules, in rule 17, for the figure, bracket and letter "5(a)", the figure, bracket and letter "6(a)" shall be substituted.

9. In the said rules for the Schedule appended thereto, the following Schedule shall be substituted, namely :-

Annexure B

Sl. No	Nomenclature of the Post	Manner of Recruitment	Minimum Qualification	Eligibility Criteria for Promotion
(1)	(2)	(3)	(4)	(5)
1	Nursing Officer	Direct Recruitment	+2 in the 10+2 System or its equivalent with Diploma in GNM/BSC Nursing from any Medical College and Hospitals of the State/any Other institutions duly recognised and approved by Indian Nursing Council.	
2	Assistant Nursing Superintendent	Promotion from Nursing Officer		Must have completed 10 (Ten) years of continuous regular service as Nursing Officer as on the 1st day of January of the year in which the Committee meets.
3	Deputy Nursing Superintendent	Promotion from Assistant Nursing Superintendent		Must have completed 2 (Two) years of continuous service as Assistant Nursing Superintendent as on the 1st day of January of the year in which the Committee meets.

	Nursing Superintendent	Promotion from Deputy Nursing Superintendent		(3)	On the basis of merit and suitability with regard to seniority with good professional record.
5	Assistant Director, Nursing (Clinical)	Promotion from Nursing Superintendent			On the basis of merit and suitability with regard to seniority with good professional record.
6	Deputy Director, Nursing (Clinical)	Promotion from Assistant Director, Nursing.			On the basis of merit and suitability with regard to seniority with good professional record.
7	Joint Director Nursing (Clinical)	Promotion from Deputy Director, Nursing(Clinical)			On the basis of merit and suitability with regard to seniority with good professional record.

By Order of the Governor

P. K. MAHAPATRA

Additional Chief Secretary to Government



Government of Odisha
Health and Family Welfare Department

ORDER

No. HFW-MS-III-CASE-/H ⁻⁰¹⁹²⁻²⁰²³ 29094 Date 24.11.2023

Whereas, perused the common order dated-07.11.2023 and dated-08.11.2023 passed by the Hon'ble High Court of Orissa in WP(C) No-36009 of 2023 filed by Narmada Dash & 07 others, WP(C) No-36238 of 2023 filed by Madhusmita Jena & 74 Others and WP(C) No-36239 of 2023 filed by Rojalin Dash & 02 others, wherein the Hon'ble High Court has disposed of the writ petitions with following observations and directions.

A

Having heard the learned counsel appearing for the petitioners and the learned Addl. Standing Counsel for the State-Opposite Parties, and on a careful examination of the background facts, this court observes that the candidature of petitioners has been disqualified on the ground that the petitioners were not having a valid registration certificate by the Odisha Nursing Council. On perusal of the record it appears that, the petitioners after competition of the course from recognized government institutions, had applied for registration with the Odisha Nursing Council. Subsequently they have been granted a valid registration certificate by such counsel. Further, it appears that such registration certificate issued by the counsel is required to be renewed from time to time. So far the present petitioners are concerned, in their case, the renewal of their registration certificate fell due during the time when the advertisement was published under Annexure-1 to the writ application. However, it is not disputed that the registration certificate issued in favour of the petitioner by the Odisha Nursing Council was duly renewed, and that such renewal means revival of the original registration without any break, and the registration certificate originally issued by the authority continuous to remain valid. Therefore it cannot be said that the petitioner were not having a valid registration certificate. it also appears that the registration number assigned to the petitioners also remains the same even after the renewal of such registration certificates. Further, on perusal of the facts of the present case, this court is also of the observation that, merely because the registration certificate is required to be renewed after a certain interval, it cannot be presumed that the same can valid certificate is in process of renewal. Moreover it is settled law that when a certificate is renewed, the certificate continues to remain valid, from the date of its initial issue, until the same is lawfully cancelled or terminated. From the records of this case, it reveals what the opposite parties have not stated that the registration certificate has either been cancelled or terminated. Therefore, the conduct of the Opposite Parties in holding that the petitioners were not having valid registration in terms by the advertisement is not correct and the same is too harsh. Moreover, this court also observed that the power under Rule 8(4) having been exercised by the government earlier as it appears from the additional

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affidavit, there is no bar in exercising such power of relaxation in genuine and appropriate cases. In view of the aforesaid analysis as well as keeping in view factual background of the present case this court deems it proper to dispose of the present writ application by remanding the matter to the Opposite Parties No. 1 & 3 to reconsider the whole issue again keeping in view aforesaid observations made by this court as well as the documents under Annexure-10 & 11 to the Additional Affidavit filed by the petitioner. Let the petitioner approach the opposite party no. 1 & 3 along with certified copy of this order within a period of two weeks from today. In such event opposite party no. 1 & 3 shall do well to consider the same as directed by this Court hereinabove and take a final decision within two weeks thereafter. The decision so taken be communicated to the petitioner within a week thereafter. Any appointment made in the meantime shall be subject to the decision to be taken by the Opposite Party 1 & 3 as directed hereinabove.

C
And whereas, pursuant to the above orders of the Hon'ble High Court, the above Petitioners have filed their representations along with copy of the above orders of the Hon'ble High Court to the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) as well as to the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) with request to include their names in the list of qualified candidates for recruitment to the post of Nursing Officer, 2023.

And whereas, the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) vide letter dated-22.11.2023 has forwarded the representations of the above Petitioners to the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) to take the appropriate decision in the matter. ✓

And whereas, perusal of the representations of the Petitioners revealed that they have requested to consider their cases for appointment as Nursing Officers pursuant to the advertisement under Annexure-1 as per merit within a stipulated time to be fixed by this Hon'ble Court.

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And whereas, perusal of the records revealed that the Annexure-1 of the writ petition is the advertisement for recruitment of the Nursing Officer published by the OP No-3. The Annexure-10 of the writ petition is the Notification No-33172, dated-18.12.2019 relating to issuance of the guidelines on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019. Further, the Annexure-11 of the writ petition is the corrigendum No-128, dated-02.01.2020 regarding modification of the point No-3, 7 & 8 of the Notification dated-18.12.2019 under Annexure-10.

D
And whereas, pursuant to the above orders of the Hon'ble High Court, the OP No-1 has formed a Committee vide this Department order No-28918, dated-23.11.2023 to examine the cases of the Petitioners following the relevant provisions of law as well as the relevant records and to submit their report in the matter.

And whereas, the Committee examined the cases in pursuance of the relevant provisions of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019, relevant records along with the Advertisement under Annexure-1 and the documents under Annexure-10 & 11 of the writ petition and submitted their report.

And whereas, perused the report of the Committee and the advertisement under Annexure-1 and other documents under Annexure-10 & 11 along with the relevant provisions of the Cadre Rule and relevant records.

D { And whereas, pursuant to the provision of Rule-8(3) of Odisha Nursing Service (Method of Recruitment and conditions of service) rules 2019 and amendment rules 2020, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) has been empowered to make the detail scrutiny of the application forms, the manner of submission of application, the documents required to be accompanied with the application form and fee required. a

E { And whereas, as per rule-9(xi) in order to be eligible for direct recruitment to the post of Staff Nurse, a candidate must have registered her/his name in Nursing Council in the state and have possessed valid Registration Certificates as on the date of advertisement. The Petitioners have referred this Department vide No.33172 dated 18.12.2019 under Annexure-10 relating to issuance of the guidelines on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019, wherein there is a relaxation of six months for production of valid Registration Certificates, though the said Notification dated-18.12..2019 has already been amended in 2020 (came into force with effect from 04.11.2020) after issuance of this letter as well as corrigendum dated-02.01.2020 under Annexure-11. As such, subsequent to Notification of the amended cadre rule, the letter issued before this amendment ceased to be in force. a

F { And whereas, the Petitioners have not mentioned fresh / renewed at the space meant for registration certificates on their applications. It has been clearly notified in the advertisement that application is valid after verification of all uploaded documents. The applicants in fact suppressed regarding renewal of registration certificates in their application forms and submitted that they possess valid Registration Certificates as on the date of advertisement, because of which, i.e., suppression of fact, their cases have been considered and they have been selected. This is against the conditions stipulated in the advertisement, wherein it was stipulated that if at any stage any misinterpretation / suppression / furnishing of wrong information / manipulation by candidates shall result in cancellation/disqualification of his / her candidature at any stage of the recruitment process, even after issue of appointment order. (c)

G { And whereas, if the cases of the candidates are considered at this stage, it will be a great injustice to those candidates, who though in similar footing did not apply for the posts abiding by the conditions stipulated in the advertisement that they should possess valid registration certificate as on the date of advertisement. Further, the process will be unending and whoever, renews a certificate at any stage can claim validity of the certificate on the basis of its continuance. ✓ d

H { And whereas, the Committee did not dispute the fact of validity of a renewed certificate with the same Registration Number, but of the view that, this process of renewal should have been completed before the date of advertisement as per the conditions of advertisement as well as provision of Cadre Rules. e

And whereas, the Commissioner-cum-Secretary to Government (OP No-1) as well as the OP No-3 have not been given the opportunities to appraise the above facts through the Counter affidavit before the Hon'ble High Court prior to passing of the above orders by the Hon'ble High Court.

I { And whereas, especially the views of the Committee, the advertisement under Annexure-1 and other documents under Annexure-10 & 11 along with the relevant provisions of the Cadre Rule and relevant records were examined in detail and reconsidered and found to be reasonable and in order as per the prevailing norm of Government.

I { Therefore, the prayers of the Petitioners to include in the list of qualified candidates for recruitment to the post of Nursing Officers, 2023 have not merit for consideration and hence, the same is rejected being devoid of any merit. Supply the copy of this order to the Petitioners.

24/11/23
Commissioner-cum-Secretary to Government

Memo No- 29095 dated 24.11.2023

Copy forwarded to the Advocate General, Odisha, Cuttack for information and necessary action.

Additional Secretary to Government

Memo No- 29096 dated 24.11.2023

Copy forwarded to the Director, Health Services, Odisha, Bhubaneswar / Director, Nursing, Odisha, Bhubaneswar for information and necessary action.

Additional Secretary to Government

Memo No- 29097 dated 24.11.2023

Copy forwarded to the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar for information and necessary action.

Additional Secretary to Government

Memo No- 29105 dated 24.11.2023

Copy forwarded to Narmada Das, D/o Adikanda Das, At-Oda, PO/PS-Mahanga, District-Cuttack and Others for information.

Additional Secretary to Government

Memo No- 29106 dated 24.11.2023

Copy forwarded to Rojalini Das, W/o Sangram Kumar Parida, At-Chatol, PO-Dhunpur, Dist-Lagatsinghpur and Others for information.

Additional Secretary to Government

Memo No- 29107 dated 24.11.2023

Copy forwarded to Madhusmita Jena, D/o Rashbihari Jena, AUPO-Bartana, PS-Jaleswar Dist-Balasore and Others for information.

Additional Secretary to Government

Memo No- 29108 dated 24.11.2023

Copy forwarded to Priyankarani Jena, C/o-Isha Dutta Lima, At-Church Street, PO-Badapada, Dist-Gajapati and Others for information.

Additional Secretary to Government



**GOVERNMENT OF ODISHA
HEALTH & FAMILY WELFARE DEPARTMENT**

No. HFW-MSIII-CASE-0190-2023 5675

/H&F.W. Dated, 02.03.2024

ORDER

The State of Odisha and another filed the Writ Appeal No-09 of 2024 before the Division Bench of the Hon'ble High Court against the order dated 07.11.2023 of the Single Bench passed in WP(C) No-36009 of 2023 filed by Narmada Das & Others.

2. Hon'ble High Court vide order dated-01.02.2024 dismissed the Writ Appeal No-09 of 2024 filed by the State of Odisha and another with following directions:

"Para-4-As it appears, the State authorities have filed this writ appeal challenging the order dated 07.11.2023 passed by the learned Single Judge as a matter of routine, as if any order passed by the learned Single Judge is amenable to writ appeal. But that is not the purpose for which the fora have been made available under the Letters Patent and the Odisha High Court Order, 1948. In any case, looking at the order passed by the learned Single Judge it is made clear that there is no decision, save and except remanding the matter to the authority to pass appropriate order. But the State authorities have challenged the same by way of this writ appeal. Therefore, this Court is not inclined to entertain this writ appeal and confirms the order passed by the learned Single Judge, so that the authorities can apply their mind and pass appropriate order in accordance with law."

3. Whereas, the Single Bench of the Hon'ble High Court vide order dated-07.11.2023 passed in WP(C) No-36009 of 2023 filed by Narmada Dash & others has disposed of the writ petition with following observations and directions.

"Having heard the learned counsel appearing for the petitioners and the learned Addl. Standing Counsel for the State-Opposite Parties, and on a careful examination of the background facts,

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this court observes that the candidature of petitioners has been disqualified on the ground that the petitioners were not having a valid registration certificate by the Odisha Nursing Council. On perusal of the record it appears that, the petitioners after competition of the course from recognized government institutions, had applied for registration with the Odisha Nursing Council. Subsequently they have been granted a valid registration certificate by such council. Further, it appears that such registration certificate issued by the council is required to be renewed from time to time. So far the present petitioners are concerned, in their case, the renewal of their registration certificate fell due during the time when the advertisement was published under Annexure-1 to the writ application. However, it is not disputed that the registration certificate issued in favour of the petitioner by the Odisha Nursing Council was duly renewed, and that such renewal means revival of the original registration without any break, and the registration certificate originally issued by the authority continuous to remain valid. Therefore it cannot be said that the petitioner were not having a valid registration certificate. it also appears that the registration number assigned to the petitioners also remains the same even after the renewal of such registration certificates. Further, on perusal of the facts of the present case, this court is also of the observation that, merely because the registration certificate is required to be renewed after a certain interval, it cannot be presumed that the same can valid certificate is in process of renewal. Moreover it is settled law that when a certificate is renewed, the certificate continues to remain valid, from the date of its initial issue, until the same is lawfully cancelled or terminated. From the records of this case, it reveals what the opposite parties have not stated that the registration certificate has either been cancelled or terminated. Therefore, the conduct of the Opposite Parties in holding that the petitioners were not having valid registration in terms by the advertisement is not correct and the same is too harsh. Moreover, this Court also observed that the power under Rule 8 (4) having been exercised by the government earlier as it appears from the additional affidavit, there is no bar in exercising such power of relaxation in genuine and appropriate cases. In view of the aforesaid analysis as well as keeping in view factual background of the present case this court deems it proper to dispose of the present writ application by

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remanding the matter to the Opposite Parties No. 1 & 3 to reconsider the whole issue again keeping in view aforesaid observations made by this court as well as the documents under Annexure-10 & 11 to the Additional Affidavit filed by the petitioner. Let the petitioner approach the opposite party no. 1 & 3 along with certified copy of this order within a period of two weeks from today. In such event opposite party no. 1 & 3 shall do well to consider the same as directed by this Court hereinabove and take a final decision within two weeks thereafter. The decision so taken be communicated to the petitioner within a week thereafter. Any appointment made in the meantime shall be subject to the decision to be taken by the Opposite Party 1 & 3 as directed hereinabove."

4. In view of the above-said order dated 01.02.2024 of the Division Bench of High Court, the claim of the Petitioners namely Narmada Das and others have been examined as given below.

5. Narmada Das and others filed WP(C) No-36009 of 2023 before the Hon'ble High Court of Orissa with prayer to quash the reject list dated-20.10.2023 under Annexure-9 and consider their appointment as Nursing Officers pursuant to the advertisement under Annexure-1 as per merit.

Annexure-1 of the WP(C) No-36009 of 2023 is the Advertisement published by the Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) on 21.01.2023 inviting online applications within the period from 27.01.2023 to 17.02.2023 for recruitment of 7483 number of district cadre Group-C posts of Nursing Officers in all 30 district establishments and 13 Medical College and Hospitals pursuant to the provisions of Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rules, 2019 and subsequent Amendment Rules, 2020, the Odisha Grant of Weightage in marks in the Recruitment for short-term COVID-19 Healthcare workers Rules, 2022 and the Odisha Group-B, Group-C and Group-D posts (Repeal and Special Provisions) Rules, 2022.

Annexure-9 of the WP(C) No-36009 of 2023 is the reject list dated-20.10.2023 published by the Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3), wherein the name of the petitioners are not found place.

Annexure-10 of the WP(C) No-36009 of 2023 is the Notification No-33172, dated-18.12.2019 relating to issuance of the guidelines on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019. Further, the Annexure-11 of the writ petition is the corrigendum No-128, dated-02.01.2020 regarding modification of the point No-3, 7 & 8 of the Notification dated-18.12.2019 under Annexure-10.

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P.T.O.

C 6. The Petitioners had submitted their representations along with copy of the above orders of the Hon'ble High Court to the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) as well as to the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) with request to include their names in the list of qualified candidates for recruitment to the post of Nursing Officer, 2023. The Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar (OP No-3) vide letter dated-22.11.2023 had forwarded their representations to the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) to take the appropriate decision in the matter.

7. Pursuant to the order dated-07.11.2023 of the Single Bench of the Hon'ble High Court, the Commissioner-cum-Secretary to Government, Health and Family Welfare Department (OP No-1) vide order No-29094, dated-24.11.2023 has rejected the prayers of the Petitioners to include their names in the list of qualified candidates for recruitment to the post of Nursing Officers, 2023. Subsequently, the OP No-1 vide order No-30621, dated-12.12.2023 has recalled the rejection order No-29094, dated-24.11.2023 pursuant to the order dated-05.12.2023 of the Hon'ble High Court passed in WP(C) No-39529 of 2023 filed by Narmada Das and others as well as the submissions made by the Learned Additional Standing Counsel before the Hon'ble High Court.

8. Advertisement was issued by Odisha Sub-ordinate Staff Selection Commission (OSSSC) inviting applications for recruitment to the district cadre Group-C Posts of Nursing Officer in 30 district establishments and 13 Medical College and Hospitals under Government of Odisha. In the said advertisement it was clearly mentioned that all the eligibility conditions should have been fulfilled as on the date of Advertisement. The OSSSC took steps for selection of Nursing Officers strictly in accordance with the Advertisement. The candidates also appeared in the office of the concerned CDM & PHO of their respective districts for verification. At the time of verification, the candidature of some candidates were found ineligible on various grounds. Some candidates had not renewed their registration certificate after expiry of the stipulated date of 5 years and applied for the post of Nursing Officer. After scrutiny on 20.10.2023, the OSSSC issued a list of candidates disqualified for not having renewal of the registration certificates after expiry of stipulated period of 05 years under Clause-3(A)(v) of the Advertisement under Annexure-1 to the writ petition.

D 9. Pursuant to order dated-07.11.2023 of the Hon'ble Court passed in WP(C) No-36009 of 2023 filed by the Petitioners, the OP No- 1 has formed a Committee vide this Department order No-28918, dated-23.11.2023 to examine the cases of the Petitioners following the relevant provisions of law as well as the relevant records and to submit their report in the matter. The Committee examined the cases in

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pursuance of the relevant provisions of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule. 2019 and subsequent Amendment Rules, 2020, relevant records along with the Advertisement and the documents and submitted their report. The OP No-1 has carefully examined the report of the Committee and the advertisement and other documents along with the relevant provisions of the Cadre Rule and relevant records and found as follows:-

(a) Pursuant to the provision of Rule-8(3) of Odisha Nursing Service (Method of Recruitment and conditions of service) Rules 2019 and Amendment Rules 2020, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar has been empowered to make the detailed scrutiny of the application forms, the manner of submission of application, the documents required to be accompanied with the application form and fee required.

E { (b) As per rule-9(xi) in order to be eligible for direct recruitment to the post of Staff Nurse, a candidate must have registered her/his name in Nursing Council in the state and have possessed valid Registration Certificates as on the date of advertisement. The Petitioners had referred to this Department Notification No-33172, dated-18.12.2019 relating to issuance of the guidelines on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019, wherein there is a relaxation of six months for production of valid Registration Certificates, though the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rules, 2019 have already been amended in the year 2020 (came into force vide Gazette Notification dated-04.11.2020). Pursuant to issuance of the above Rules vide Gazette Notification dated-04.11.2020, the Notification dated-18.12.2019 under Annexure-10 to the writ petition and the corrigendum dated-02.01.2020 under Annexure-11 to the writ petition arising out of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rules, 2019 have no locus standi and ceased to be in force from 04.11.2020.

F { (c) The Petitioners have not mentioned fresh / renewed at the space meant for registration certificates on their applications. It has been clearly notified in the advertisement that application is valid after verification of all uploaded documents. The Petitioners in fact suppressed regarding renewal of registration certificates in their application forms and submitted that they possess valid Registration Certificates as on the date of advertisement, because of which. i.e.. suppression of fact, their cases have been considered and they have been selected. This is against the conditions stipulated in the advertisement, wherein it was stipulated that, if at any stage any misinterpretation / suppression / furnishing of wrong information / manipulation by candidates shall result in cancellation / disqualification of his / her candidature at any stage of the recruitment process, even after issue of appointment order.

P.T.O.

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G { (d) If the cases of the Petitioners are considered at this stage, it will be a great injustice to those candidates, who though in similar footing did not apply for the posts abiding by the conditions stipulated in the advertisement that they should possess valid registration certificate as on the date of advertisement. Further, the process will be unending and whoever, renews a certificate at any stage can claim validity of the certificate on the basis of its continuance.

H { (e) The OP No-1 did not dispute the fact of validity of a renewed certificate with the same Registration Number, but of the view that, this process of renewal should have been completed before the date of advertisement as per the conditions of advertisement as well as provision of Cadre Rules. There should be no gap in between the expiry of period of 5 years as validity and the date of renewal. Since the matter was disposed of at the stage of fresh admission, the OP No-1 herein had no occasion to bring the relevant facts to the notice of the Hon'ble Single Judge, regarding suppression of facts by the Petitioners and the fact that the Petitioners deliberately mislead the Hon'ble Single Judge.

I { (f) The advertisement under Annexure-I to the writ petition and other documents (under Annexure-10 & 11 of the additional affidavit to the writ petition) along with the relevant provisions of the Cadre Rule and relevant records were examined in detail and reconsidered and found to be reasonable and in order as per the prevailing, norm of Government. Therefore, the prayers of the Petitioners to include in the list of qualified candidates for recruitment to the post of Nursing Officers, 2023 have been rejected by the CP No-1 being devoid of any merit and communicated to the Petitioners vide orders dated-24.11.2023 under Annexure-12 to the writ petition.

Advertisement- 10. The OSSSC has allowed all candidates, applied for the post of Nursing Officers, to appear the examination by issuing the admit cards including the Respondents. But during verification of the original documents by the Commission as advertised for the post of Nursing Officers pursuant to the advertisement dated-21.01.2023, it was found that the Petitioners have not mentioned fresh / renewed at the space meant for registration certificates on their applications. It has been clearly notified in the advertisement that application is valid after verification of all uploaded documents. The Petitioners in fact suppressed that they did not renew their registration certificates after expiry of continuance period of 05 years in their application forms and submitted that they possess valid Registration Certificates as on the date of advertisement, because of which, i.e., suppression of fact, their cases have been considered and they have been selected. In the advertisement, it was stipulated that if at any stage any misinterpretation suppression / furnishing of wrong information / manipulation by candidates shall result in cancellation / disqualification of his / her candidature at any stage of the recruitment process, even after issue of appointment order.

Am

11. The candidature of the Petitioners were rejected for not having renewal of their Registration Certificate after completion of 05 years from the date of initial issue under Clause-3 (A) (v) of the advertisement of Nursing Officer-2023 on 20.10.2023 as per rule-9(xi) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019 and subsequent Amendment Rules, 2020 wherein it has been stipulated that a candidate must have registered her/his name in Nursing Council in the state and have possessed valid Registration Certificates as on the date of advertisement.


12. with regards to the claim of the petitioners on issuance of the guidelines vide order No.33172 dated 18.12.2019 on the Rule-8 (4) of the Odisha Nursing Service (Method of Recruitment and Conditions of Service) Rule, 2019, it is pertinent to mention here that there is a relaxation of six months for production of valid Registration Certificates, but the said Notification dated-18.12.2019 has already been amended in 2020 (came into force with effect from 04.11.2020) after issuance of this letter as well as corrigendum dated-02.01.2020. As such, subsequent to Notification of the amended cadre rule, the letter issued before this amendment ceased to be in force.

13. The Petitioners appearing for the post of Nursing Officer pursuant to an Advertisement ought to have been more vigilant and should have taken prompt steps to qualify themselves to the conditions of the Advertisement. The Law is well settled that the advertisement is supreme and any deviation of the Advertisement would amount to changing the Cadre Rules. If the Petitioners at this juncture are allowed, the same would cause immense prejudice to many other similarly situated candidates and as such the process of recruitment would be linger for the sheer fault of the Petitioners and such a situation should not be allowed to them.

14. The above views of the Committee, the advertisement under Annexure-1 and other documents under Annexure-10 & 11 along with the relevant provisions of the Cadre Rules and relevant records were examined in detail and reconsidered and found to be reasonable and in order as per the prevailing statutory norm of Government.

Therefore, the prayers of the Petitioners to include in the list of qualified candidates for recruitment to the post of Nursing Officers, 2023 have no merit for consideration and hence, the same is rejected being devoid of any merit.

Supply the copy of this order to the Petitioners.


02/03/24
Commissioner-cum-Secretary to Government

Memo No- 5676

dated 02.03.2024

Copy forwarded to the Advocate General, Odisha, Cuttack for information and necessary action.


Additional Secretary to Government

Memo No- 5677

dated 02.03.2024

Copy forwarded to the Director, Health Services, Odisha, Bhubaneswar / Director, Nursing, Odisha, Bhubaneswar for information and necessary action.


Additional Secretary to Government

Memo No- 5678

dated 02.03.2024

Copy forwarded to the Secretary, Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar for information and necessary action.


Additional Secretary to Government

Memo No- 5679

dated 02.03.2024

Copy forwarded to Narmada Das, D/o Adikanda Das, At-Oda, PO/PS- Mahanga, District-Cuttack and Others for information.


Additional Secretary to Government

SCANNED

**COMPUTERISED FILING COUNTER
ORISSA HIGH COURT,CUTTACK
ACKNOWLEDGEMENT SLIP**

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Branch No : CONTEMPT

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Case No : CONTC 9525/2023

Received From : Respondent

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IN THE HIGH COURT OF ORISSA, CUTTACK

CONF CASE NO. 9525 / 2023
Narmade Das Petitioner / Appellant

Shalini Pandit ^{-Vrs-}
State of Odisha & Ors. ---Opp. Party/Respondent

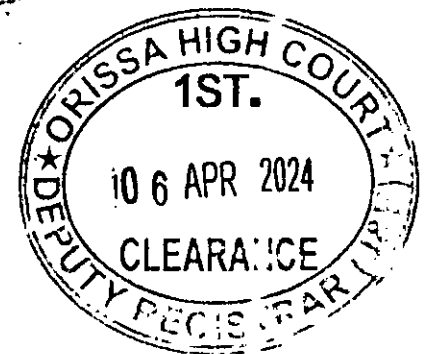
RECEIPT

Received a copy of :-

1. I.A. No. /20
2. Affidavit
3. Addl. Affidavit
4. Further Affidavit
5. Counter Affidavit
- ✓ 6. Compliance Affidavit
7. Show Cause Affidavit
8. Rejoinder Affidavit
9. Objection Affidavit/
10. Preliminary / Counter affidavit
11. Adoption Counter affidavit

On behalf of the Opp. Party Nos. 1 from
Office of the Advocate General, Odisha, Cuttack

Cuttack
Dt. 2/4/24.



Math
Advocate 2/4/24.

For petitioner / Opp. Party
Appellant / Respondent