KARUNAKAR DAS, A.S.C.

# In the High Court of Orissa **ORDER SHEET**

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Ct exb)

BLAPL/W. P. (CWYo.No. 2188/2023 of 20 23.

STATE OF ODISHA

Our

Petitioners .

Versus

# CHIRANJIBI JAYASINGH

Opposite-Party

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
128978		, , , , , , , , , , , , , , , , , , ,	PRESENTED ON 29/08/2023 Register and Put up for Orders
ANNED			SM
			Registrar (Judicial)
:	· :		fore SiR .
,			May 22
			O1/09/23 BIBHUDENDRA SARAN ADDL- STANSP REPOR
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# IN THE HIGH COURT OF ORISSA AT CUTTACK W.A. No. 2188 of 2023

State of Odisha and others

**Appellants** 

Mr. Bimbisar Dash, Addl. Government Advocate

-versus-

Chiranjibi Jayasingh

Respondent

# CORAM: HON'BLE THE CHIEF JUSTICE HON'BLE MISS JUSTICE SAVITRI RATHO

# <u>ORDER</u>

03.12.2024

01.

Order No.

This matter is taken up through Hybrid mode.

# I.A. No.5926 of 2023

- 2. This application has been filed by the appellants for dispensing with filing of certified copy of the order dated 11.11.2022 (Annexure-1).
- 3. Mr. Bimbisar Dash, learned Additional Government Advocate appearing on behalf of the appellants undertakes to file the certified copy of the impugned order within a week.
- 4. Considering the aforementioned submission, filing of the certified copy of the order under Annexure-1 is dispensed with for the time being. Let the certified copy of the order be filed within one week as undertaken.
- 5. The application stands disposed of.

# W.A. No.2188 of 2023

6. List this matter on 10.12.2024.

(Chakradhari Sharan Singh)

Chief Justice

(Savitri Ratho)

Judge

# IN THE HIGH COURT OF ORISSA

Case No. WA NO. 2188 of 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
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		(i) P.A NO. 5985 of 2023 is at Leag A last
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# ORISSA HIGH COURT FILING ACKNOWLEDGEMENT SLIP

CNR

Filing No Date and Time

Misc Case/IA

Petitioner Name Petitioner Advocate Name

Respondents Name Respondents Advocate Amount

Police Station FIR

ODHC010688772023 WA/0002188/2023

**29/08/2023-12:17:47** 5925/2023,5926/2023,5927/2023

STATE OF ODISHA

KARUNAKAR DAS, A.S.C. CHIRANJIBI JAYASINGH

Tuesday 29th of August 2023 02:01:06 PM



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· <u>-</u> -	Is 'state' is a party. Name the Deptt.: (ret/Res) (Put mark) School & Mass Education	
	If Public Undertakings (Specify name): (Pet/Res) (put mark)	4
₹.	(a) Humber of category with sub-category under which the matter falls:	
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	point of law:	
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g.	The ther any other matter is pending against the impugned order/ Judgement?	
	If so, yive the number of matter	
ø.	Whether the matter is covered by any judgment of the Supreme Court, this Court or any other high Court, if so give details of the judgement:	
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BRI KARUNAKAR BAS Addi. Standing Guunsel En. NG (U-008811939 Muu 1 3317333161 karunakatakkask@yman. eefi

# **High Court of Orissa**

# **Acknowledgement**



: ODHC010688772023 **CNR** 

**Efiling No** : AOD20220001886C202300681

Filing No. : WA/2188/2023 Date of Filing

: 29-08-2023

Petitioner

: STATE OF ODISHA

Time of Filing

: 12:17:47

Petitioners -

: KARUNAKAR DAS, A.S.C.

Respondent

**JAYASINGH** 

: CHIRANJIBI

**Advocate Amount** 

: 0.00

**Print** 

# STAMP REPORT

CASE NO. 11. A: 2188/23

### LIMITATION

Date of Judgement Awards 11-11-22 Date of Valid Presentation **Total Period Occupied** day 9 Limitation days **Certified Copy Period** Delay in filing

1.	In time $N.O.$ Expired on $1/-12-22$	1 and from the
2.	Period of delay 26 days delay.  Court Fee of 181215 Days	9.A. for Control
3.	Court Fee of 18/2/- Jack	and according

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  - (b) Appellate Court Judgement Rs. Decree Rs......
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# IN THE HIGH COURT OF ORISSA: CUTTACK.

2188 of 2023 W.A. No.

(Arising out of W.P. (C) No. 19190 of 2022 disposed of on 11.11.2022.)

Code No. 310200

State of Odisha and Others.

... Appellants.

-Versus-

Chiranjibi Jayaisngh

Respondent.

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Copy of the order d	ated 11.11.2022	22	
in WPC No. 19190	of 2022.		
5. Annexure-2		• • • • •	
Copy of the order d	ated 11.11.2022	23-59	•
in WPC No. 15345	of 2022.	·	
6. Annexure-3		== -02	
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its annexures.			
7. Annexure-4		0/ 108	
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Addl. Standing counsel Cuttack. 11-8-2-9/0 the A.G., Odisha, Cuttack.

# **SYNOPSIS**

The Respondents were initially engaged as a Gana Shikhyak by the District Project Coordinator, SSA, Nayagarh with prior approval of the Collector-cum-CEO, Zilla Parishad, Nayagarh. The Government in School and Mass Education Department, Odisha, Bhubaneswar vide Notification No. 25290/S&ME Dated 22.12.2016 issued modalities for regularisation of Gana Shikhyakas.

The Government in School and Mass Education Department also vide Letter No.17864/SME dated 18.09.2017 created 563 numbers of Level-V Assistant Teacher(ex-cadre) for Nayagarh District. Thereafter 02 No. clarification letter issued by the S & ME Department vide Letter No. 17960/SME dated 20.09.2017 and No. 18240/SME dated 23.09.2017 for regularisation of Gana Shikhyaka.

That, while verification is going on for regularisation of Gana Shikhyakas, one Sri Balabhadra Majhi(petitioner in W.P.(C) No. 15345/2022) filed a case before the Court of the Collector, Nayagarh vide Misc Case No. 01/2018 with a prayer to regularise his service as Level-V Asst. Teacher (ex-cadre). On dated 01.01.2018, the Collector & D.M., Nayagarh passed



order not to take any decision on regularisation of Gana Shikhykas until further orders.

That, while finalizing the Misc Case No. 01/2018 on dated 20.04.2018, the Collector & D.M., Nayagarh passed order, there is no justification by the District Education Officer, Nayagarh not to include the name of the petitioner for regularization of service. In the meantime, the State Govt. vide letter dated 21.05.2018 directed the authorities not to regularize any Gana Shikhyaka who does not possess OTET qualification as per order dated 24,04,2018 of the Hon'ble Court passed in W.P.(C) No. 4684 of 2018.

Being aggrieved, the present Respondent filed Writ petition bearing WPC No. 19190 of 2022 which was disposed on 11.11.2022 by the Hon'blc High Court and directs the opposite parties to regularise the service of the respondent as Level-V Asst. Teacher on completion of eight years as Gana Shikhyaka, as per the notification dated 22.12.2016.

The State appellants being aggrieved by the order dated 11.11.2022 of the Hon'ble Single Judge, approached this Hon'ble Court in the aforesaid writ appeal.

Cuttack.

Addl. Stansferhal Colonsel Date: 21-8-93 O/O the A.C., Odisha, Cuttack.

SRI KARUNAKAR DAS Addi. Standing Counsel En. No.-0-352811989 Mob.: satizasift Magunakardasare Pur an com

# Appendix-II

# **LIST OF DATES & EVENTS**

Date	Events
05.07.2008	The Respondent was initially engaged as Gana Shikhyka vide office order dated 05.07.2008 by the
	District Project Coordinator, Nayagarh.
22.12.2016	The Government in School and Mass Education Department vide Notification No. 25290/ S & ME dated 22.12.2016 issued modalities for regularization of Gana Shikhyakas
18.09.2017	The Government in School and Mass Education
18.09.2017	Department vide Letter No. 17864/SME dated
	18.09.2017 created 563 numbers of Level-V
	Assistant Teacher(ex-cadre) for Nayagarh District.
20.09.2017	The Government in School and Mass Education
1	Department vide letter No. 17960 dated
	20.09.2017issued clarification regarding
	regularization of Gana Shikhyakas .
23.09.2017	The Government in School and Mass Education
	Department vide letter No. 17960 dated
	20.09.2017issued another clarification regarding
<u> </u> 	regularization of Gana Shikhyakas.
01.01.2018	Collector & D.M., Nayagarh passed order dated 01.01.2018 not to take any decision on regularisation
	of Gana Shikhyakas until further orders on the Misc
	Case No. 01/2018 filed by the respondent.
20.04.2018	While finalised the Misc Case No. 01/2018, the
	Collector & D.M., Nayagarh passed order dated
1	20.04.2018 for regularisation of the service of the
	respondent.



24.04.2018	As per order dated 24.04.2018 of the Hon'ble Court
21.05.2018	passed in W.P.(C) No. 4684/2018 filed by Odisha
	Vikash Parishad, the School and Mass Education
	Department vide letter dated 21.05.2018 direct the
•	authoritics not to regularise any Gana Shikhyka who
	does not possess OTET qualification.
31.03.2019	As per the Govt. Notification dated 22.12.2016 Such
	Gana Shikhyak is required to pass OTET within
	31.03.2019, if he has not passed OTET earlier. If
	she/he does not pass the OTET by such date, she/he
	will not be eligible to any further increment after
	31.03.2019.
13.07.2021	The W.P.(C) No. 4684/2018 filed by Odisha Vikash
	Parishad was dismissed as withdrawn vide order No.
	30 dated 13.07.2021 of the Hon'ble Court.
2022	The present Respondent filed W.P.(C) No. 19190 of
	2022 with a prayer for regularisation of petitioner's
	service as Level-V Assistant Primary School Teacher
	in accordance with notification dtd. 25.7.2016 and
	notification dtd. 22.12.2016,
11.11.2022	A) The W.P.(C) No. 15345 of 2022 filed by Sri
	Balabhadra Majhi was disposed of the Hon'ble
	Single judge.
	B) The W.P.(C) No. 19190/2022 was disposed of by
	the Hon'ble Single judge in the light of order dated
	11.11.2022 passed by the Hon'ble Court in W.P.(C)
	No. 15345 of 2022 filed by Balabhadra Majhi and
	the same is impugned in the present writ appeal.

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Addl. Stunding for well Date: 24-8-32 O/O the A.G., Odisha, Cuttack.

SRI KARUNAKAR DAS Addi. Standing Counsel En. No.-0-3526/1999 MOD . 0817233161 karunakardasada Qoman com 🕜



IN THE HIGH COURT OF ORISSA CULTACE

W.A. No. 2188 of 2023.

(Arising out of W.P. (C) No. 19190 of 2022 Disposed of on 11.11.2022)

Code No. 310200

### IN THE MATTER OF:

An application under Clause 10 of Letter Patents Appeal read with Article 4 of Orissa High Court Order, 1948 read with Rule-2 of Chapter-VIII, O.H.C. Rules, 1948.

AND

# IN THE MATTER OF:

A Memorandum of appeal challenging the Order dated 11.11.2022 passed by the Hon'ble Single Judge in W.P. (C) No. 19190 of 2022.

### **AND**

# IN THE MATTER OF:

- State of Odisha, represented through the Commissioner-cum-Secretary to Govt., School and Mass Education Department, At-Lokseva Bhawan, Po-Bhubaneswar, Dist-Khurda.
- 2. Director, Elementary Education, Odisha, At-Heads of the Department Building, At/Po/PS-Bhubaneswar, Dist Khurda.

Rajashree Paffanae District Education Officer Nayagarh.

SRI KARUNAKAR DAS Addi. Standing Counsel Addi. No. 0-3626/1989 En. No. 0-3626/1989 Man. 8417735/161

Presented on 298

- 3. The District Magistrate & Collector, Nayagarh District, At/Po/Dist- Nayagarh-752069
- 4. District Education Officer, Nayagarh District, At/Po/Dist- Nayagarh-752069

Appellants..

(Opp. Party No. 1 to 4 in the Writ Petition.)

### -Versus-

Chiranjibi Jayasingh aged about 50 years,

S/o- Pravakar Jayasingh presently as Gana

Shikhyak in Govt. U.P. School,

Komanda(B), At- Komanda, Po
Godipada, Ps-Sarankul, Dist- Nayagarh

(Petitioners in the Writ Petition.)

Respondent.

The matter out of which this writ appeal arises was before this Hon'ble Court in W.P. (C) No. 19190 of 2022, which was disposed of on 11.11.2022 by the Hon'ble Single Judge.

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THE HON'BLE CHIEF JUSTICE, ORISSA HIGH COURT AND HIS LORDSHIPS COMPANION JUSTICES OF THE SAID HON'BLE COURT.

The humble petition of the appellants named above;

Rejashere Pattanaeh. District Education Officer Nayagarh.

-27

1. That, the appellants above named, who are the functionaries of the State of Odisha, have filed aforesaid intra-court of appeal challenging the order dated 11.11.2022 passed in W.P.(C) No. 19190/2022 by the Hon'ble Single Judge, wherein the Hon'ble Single Judge passed the following order:

"XXX XXX XXX

Therefore, in view of the detailed reasons stated Judgment dated 11.11.2022 passed by this Court in W.P.(C) No. 15345 of 2022(Balabhadra Majhi V. State of Odisha and Ors), this Writ Petition stands disposed of in terms of the said Judgment."

XXX XXX XXX

Copy of the order' dated 11.11.2022 in W.P. (C) No. 19190 of 2022 passed by the Hon'ble Single Judge is annexed herewith as **Annexure-1**.

2. That, the Hon'ble Single Judge while disposed of the W.P.(C) No. 15345 of 2022 filed by Balabhadra Majhi Vrs State and others passed the order dated 11.11.2022 as follows:

"XXX XXX XXX

Taking into consideration the factual and legal aspects, as delineated above, this

Rajashree Pallanaeh District Education Officer Navagarh.

Court is of the considered views that the opposite parties cannot deny the benefit of regularisation of service to the petitioner as Level-V Asst. Teacher, as the petitioner has got requisite academic qualification and has also acquired training qualification and otherwise also satisfies the eligibility criteria Therefore, regularisation. for acquisition of OTET qualification, he cannot be denied the benefit regularisation. If the petitioner has not acquired OTET qualification by 31th March 2019, he may not be entitled to incremental benefit, but that ipso facto cannot deny the benefit of regularisation to him. Accordingly, this Court directs the opposite parties to regularise the service of the petitioner as Level-V Asst. Teacher on completion of eight years as Gana Sikshyak, as per the notification dated 22.12.2016. As he has already retired from service, he should be extended such benefit notionally from the date of completion of eight years as Gana Sikhyaka by regularising his service as Level-V Asst. Teacher. Since petitioner has already retired, his pension

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be revised and he should be granted pensionary benefits in the revised scale of pay admissible to him by fixing the same notionally, as expeditiously as possible, preferably within a period of three months from the date of communication of this judgement.

AUG 2023

XXX XXX XXX"

Copy of the order' dated 11.11.2022 in W.P. (C) No. 15345 of 2022 passed by the Hon'ble Single Judge is annexed herewith as <u>Annexure-2</u>.

- 3. That, the present appellants are functionaries of the State of Odisha and the cause of action for filing the intra-court of appeal arises within the territorial jurisdiction of this Hon'ble Court.
- 4. That, bereft of all unnecessary details the case of the present respondent before the Hon'ble Single Judge as follows:
  - 4.1 That, the present Respondents/Opp. Parties worked as Gana Shikhyak duly appointed by the DPC, SSA, Nayagarh under Sarba Sikhya Abhiyan Scheme and imparted services in different primary schools under Nayagarh District.
  - 4.2 That, while the present Respondents/Opp. Parties were continuing as such, the School and

X The

- I) The Gana Sikshyks who have completed 8 years of regular and continuous engagement and have possessed educational and training qualification as mentioned at para(2) below will be regularized as Level-V Assistant Teacher(ex-cadre) equivalent to Level-V teacher of Elementary Cadre.
- II) For regularization as Level-V Assistant Teacher(ex-cadre), a Gana Sikshyak must be possessing educational and training qualification as given below:-
- (a)(i)Higher Secondary(+2 or its equivalent) and 2 year Diploma in Elementary Education (C.T.) or Higher Secondary(+2 or its equivalent) and 2 year Diploma in Education (Special Education): or Graduate in Arts/Science and 2 year Diploma in Elementary Education or Graduate in Arts/Science and 2 year Diploma in Education(Special Education); and must have Odia as MIL up to Class-VII or pass in Odia Language test equivalent to M.E. standard conducted, or declared equivalent, BSE(Odisha); or

Rajashare Pattanach District Education Otticer Navagart

- (ii) Graduation in Arts/ Science and 1 year Bachelor in Education(B.Ed) or Graduation in Arts/ Science and 1 year B.Ed (Special Education); or Higher Secondary(+2 or its equivalent) and 4 years Bachelor in Elementary Education or Higher Secondary(+2 or its equivalent) and 4 years B.A./B.Sc. Ed. Or B.A. Ed./ B.Sc Ed., and must have Odia as MIL up to Class-X or pass in Odia Language test equivalent to Xth standard conducted, or declared equivalent, by BSE(Odisha)
- (b) Such Gana Sikshyak is required to pass OTET within 31.03.2019 if he has not passed OTET earlier. If she/he does not pass the OTET by such date, she/he will not eligible to get any further increment after 31.03.2019.
- 4.3 That, the Government in School and Mass vide Education Department also Letter No.17864/SME dated 18.09.2017 created 563 numbers of Level-V Assistant Teacher(Ex Cadre) to be filled up from among the eligible Gana Sikshyakas who have completed 8(eight) years regular and continuous engagement and have possessed requisite education and training qualification as mentioned in S & ME Department Notification No. 25290/SME dated 22.12.2016.

- Age

Regestree Pattanach

Rajashove Pattanach District Education Officer Navagath

4.4 That, it is humbly submitted that, pursuing Govt. letter No. 25290/SME dated 22.12.2016 and letter No. 357 dated 05.01.2017, No. 9427 dated 27.05.2017 and D.O. No. 21/DEE dated 27.07.2017 of Director, Elementary Education, a list of 487 trained Gana Shikhyakas who were found eligible for appointment as Level-V Asst. Teacher was sent to the Directorate vide letter No. 4656 dated 10.08.2017 for favour of necessary action. Besides a copy of the proceedings of the selection committee meeting held on 06.07.2017 and 05.08.2017 under the chairmanship of Collector-cum- Chairman. District Selection Committee was also sent to the Directorate. That, prior to approval of the selected Gana Shikhyakas as Level-V Asst. Teacher, the SPD, OPEPA vide his letter No. 6636 dated 24.08.2017 directed the DPC, Nayagarh for publication of the list and Biodatas in his office Notice Board and invite objection if any from the stake holders if something wrong noticed by them after proper scrutiny.

4.5 That, before issue of appointment order on the demands of the Gana Shikhyaka Mahasangha, Govt. issued a clarification letter relating to validity of permission given to them by Departmental Officials for prosecuting higher qualification vide Letter No. 17960/ SME dated

- King

20.09.2017 and 18240/ SME dated 23.09.2017.

In the above two letters, it is clarified by Govt. that,

AUG 2023

- a. The Gana Shikhyakas who have acquired higher qualification as non-collegiate candidate by obtaining permission from Competent Authority i.e. Collector or DPC can only be considered for regularization.
- b. The clarification given at point No. 3 of the Department Letter No. 17960 dated 20.09.2017 is hereby explained further. SPD, OSEPA issued a circular on 07.04.2010 intimating that Collector is the competent authority to issue permission to Gana Shikhykas for obtaining higher qualification. 16.02.2008 From 07.04.2010, there was no instruction issued on competent authority to issue permission for obtaining higher qualification. In view of the above it is considered to allow the permission issued by others like C.I. of schools, D.I. of Schools, BDOs, S.I. of Schools, BRCCs **HMs** during 16.02.2008 and 07.04.2010. After 07.04.2010, permission

A Comment

from the competent authority only be considered.

That, while verification is going on for regularization of Gana Shikhyakas at that time, one Sri Balabhadra Majhi, Gana Shikhyaka (Petitioner in W.P.(C) No. 15345/2022) filed a Case before Court of the Collector, Nayagarh Vide Misc Case No. 01/2018 with a prayer to regularized his service as Level-V Asst. Teacher (ex- cadre), in which the Collector & D.M. Nayagarh vide order dated 01.01.2018 has passed order as below:-

"District Education Officer, Nayagarh is instructed not to take any decision on regularization of Gana Sikhyaka until further orders.

It is submitted, ultimately the said Misc.

Case No.01 of 2018 has been disposed of by the Collector, Nayagarh on 20.04.2018 holding that there is no justification by the District Education Officer not to including the name of the Petitioner to regularize his service, but after such final order has been passed by the Collector, Nayagarh dated 20.04.2018, this Hon'ble Court while entertaining a P.I.L. filed by Odisha Vikash Parishad, Bhubaneswar bearing No.4684

Rayselvee Pathanach
District Education Officer
Nayagarh.

Parties shall not regularize any Gana Sikshyak as Level-V Assistant Teacher as per the Notification dated 22.12.2016 who does not possess OTET qualification and basing on such order passed by this Hon'ble Court in the aforesaid Writ Petition, the State Government in its letter dated 21.05.2018 directed the authorities not to regularize in Gana Sikshyak as Level-V Assistant Teacher who does not possess OTET qualification.

of 2018 that till the next date of listing, the Opp.

- 5. That, the present respondent/ Opp. Party being aggrieved with the aforesaid decision of the appellants preferred writ petition bearing W.P. (C) No. 19190 of 2022, seeking a direction to regularize his service as Level-V Asst Teacher. as per Government Notification dated 22.12.2016 to pass an order commanding to the opposite parties to allow his differential arrear salaries with effect from the date of his regularization and other retirement benefits accordingly. The copy of the writ petition along with annexures are filed herewith as Annexure-3.
- 6. That the present appellants after receiving notice from this Hon'ble Court filed counter to the writ application before this Hon'ble Court by denying the claim of the present respondent. Copy of said counter

Parashree Pathanaek istrict Education Officer

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affidavit along with its annexures is filed herewith and marked as Annexure-4.

7. That, in reply to the counter affidavit the present respondent filed rejoinder affidavit before this Hon'ble Court on 09.11.2022 and the same is filed herewith as **Annexure-5**.

Being aggrieved by the aforesaid order dated 11.11.2022 in W.P. (C) No. 19190 of 2022 passed by the Hon'ble Single Judge the present appellants challenge the same on the following amongst others;

# **GROUNDS**

- A) For that, the impugned judgment by the Hon'ble Single Judge dated. 11.11.2022 under Annexure-1 is totally unjust, perverse, unreasonable and in as much as the same is contrary to law governing the field. Hence the impugned judgment is liable to be quashed.
- B) For that the issue before the Hon'ble Single Judge for regularisation of service of the present respondents as Level-V Assistant Teacher and for absorption as regular Primary School Teacher under Level-V cadre, an employee has to satisfy the requirement of Elementary Cadre Rule 1997 as amended from time to time read with the provision provided under the Right of Children to Free and



Compulsory Education Act, 2009 and corresponding to said rule 2010. It is submitted that since the present respondent is seeking regularisation/ absorption as Assistant Teacher, Level-V cadre in primary school, therefore his service concerned is governed under the aforesaid Elementary Cadre Rule 1997 read with Right of Children to Free and Compulsory Education Act, 2009 as well as Odisha Right of Children to Free and Compulsory Education Rules, 2010. Rule 23 of Right of Children to Free and Compulsory Education Act, 2009 specifically stipulates regarding qualification for appointment and terms and conditions of service of teachers, which clearly provides "any person possessing such minimum qualification, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher." Similarly Rule 15, Odisha Right of Children to Free and Compulsory Education Rules, 2010 also stipulates that the person to be appointed as a teacher shall be in consonance with qualification laid down by the academic authority constituted by the Central Government. Admittedly National Council of Teacher Education is the academic authority as has been notified by the Central Government and as per the NCTE norms, to be appointed as teacher one having the requisite qualification including the qualification of Teachers Eligibility Test (TET). It is further submitted that

Rajagharee Paffa District Education Officer

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basing on such provision provided under the Central Act 2009, read with Rule 2010, the Elementary Cadre Rule, 1997 has also been amended in 2019 by incorporating the qualification of OTET is mandatory for becoming a teacher in elementary cadre. Therefore, unless a person has acquired the OTET qualification, he is not entitled to hold such post and the same is vital aspect had not been considered by the Hon'ble Single Judge while passing the impugned judgment. Hence the impugned judgment is liable to be quashed. Copy of NCTE Notification dtd. 23.8.2010 is enclosed herewith as Annexure-6.

C) For that the employment in educational institution having Teachers Eligibility Test has already been held mandatory by the Hon'ble Apex Court in the case of Government of Utter Pradesh and another Ananda Kumar Yadav reported in 2018, Versus Volume 13 SCC 560, whereby the Hon'ble Apex Court after incorporating various provisions of RTE Act, 2009 as well as the recruitment rule is clearly held that acquisition of Teachers Eligibility Test qualification is mandatory for become a teacher in elementary cadre and the aforesaid judgment, which is governing the field, though has been placed before the Hon'ble Single Judge has also referred the said judgment but without giving any finding with regard to applicability of such judgment to the present case has erroneously allowed the writ petition filed by the present

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respondent by ignoring the provisions provided under the Right of Children to Free and Compulsory Education Act, 2009 and the said rules governing the field, hence the impugned judgment is liable to be quashed.

- For that the Hon'ble Single Judge while D) directing for regularisation of the present respondent has lost sight of the fact that the rationality, purpose and purport of passing OTET examination as held by the Hon'ble Apex Court in the decision cited above is that "the rationale for including the TET as minimum qualification for a person to be eligible for appointment as a teacher is that it would bring national standards and benchmark to quality teaching." The object is to bring equality in the standard of the teachers, which is in the furtherance of the object in mandate enshrined in Article 14 and 16 of the Constitution of India, Hence the Hon'ble Single Judge by ignoring the same passed the impugned order, which will hit by Article 14 and 16 of the Constitution of India and is not sustainable in the eye of law.
- E) For that it is humbly submitted that the present respondent while filing the writ application before this Hon'ble Court praying therein to regularise his service in accordance with notification dtd. 25.7.2016 and notification dtd. 22.12.2016 was filed before this Hon'ble Court after retirement of his service.

Rejashnee Pattanaeh,



agashree Pastanaeh, istrict Education Officier

Therefore, the prayer made by the present respondent in the writ application is not at all maintainable as because he has already retired by the time when he has filed the writ petition.

- F) For that the Hon'ble Single Judge while passing the impugned judgment lost sight of the fact that the Central Act i.e Right of Children to Free and Compulsory Education Act, 2009 and rules framed there under by the State Government, which was passed by the Parliament is always has an overriding effect to any subordinate Legislation passed by any authority including the State Government. Therefore, the notification dtd. 22.12.2016, which was heavily relied by the present respondent in the writ application has no overriding effect to the Act passed by the Parliament and rules framed under 309 of the Constitution of India. Any notification under Article 162 of the Constitution can only be issued to fill up the gap in the rules, but it cannot be overriding effect to the act and rules. Therefore, when the act and rules specifically states that for becoming the teacher, OTET is a mandatory, merely issuing notification that cannot have overriding effect over the Act and Rules.
- G) For that the Hon'ble Single Judge also lost sight of the fact that the present respondent was given the chance to complete the OTET in the service career, but the reasons best known to him, he choose not to do the



Rejeachnee Paffarach. District Education Officer Nayagarh.

OTET. So the respondent cannot get the benefit of his own wrong, hence the prayer for regularisation should not have been accepted.

- H) For that it is humbly submitted that in exercise of powers conferred by Section 23(1) of the Right of Children to Free and Compulsory Education Act, 2009, Government of India authorised National Council of Teacher Education (NCTE) as the academic authority to prescribe minimum qualification for a person to be eligible for appointment as a teacher. NCTE vide its Notification dated 23.08.2010, published in the Gazette of India Extraordinary on 25.08.2010, prescribed the minimum qualification for a person to be eligible for appointment as a teacher wherein pass in Teacher Eligibility Test(TET) was included as one of the essential qualifications.
- I) For that, pursuant to the said notification and in compliance with directive of NCTE, the Department of School and Mass Education, Government of Odisha passed Resolution No. 14302/SME dated 04.06.2012 laying down 'Guideline for conducting Teacher Eligibility Test'. The Test was applicable to all candidates possessing minimum required academic qualifications who aspired to become teachers for Classes I to VIII in the schools of State Government, Private aided and private unaided schools in the State of Odisha.

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- J) For that the ST & SC Development, Government of Odisha issued a resolution dated 17.10.2013 prescribing 'Guidelines for engagement of Sikshya Sahayaks' keeping in view of the requirement prescribed under the RTE Act, 2009 and the mandatory minimum qualification criteria prescribed by NCTE in its notification dated 23.08.2010. Passing of OTET was prescribed as a mandatory requirement in the eligibility criteria prescribed under the said guidelines for consideration as an elementary school teacher not only in terms of the circular dated 17.10.2013 issued by the State Government. Hence, it is clear that, passing of Teacher Eligibility Test is a mandatory minimum qualification required to be a teacher for elementary education in terms of RTE Act, 2009 and Resolution no. 14302/SME dated 04.06,2012.
- K) For that it is also a fact that this Hon'ble Court in W.P. (C) No.4684 of 2018 passed order not to regularize the service of Gana Sikshyak as Assistant Teacher who does not possess OTET qualification but the said Writ Application is ultimately dismissed as withdrawn, but after dismissal of the said Writ Petition, there is no instruction from the State Government to regularize the claim of the Gana Sikshyak who does not possess the OTET qualification. Therefore, the prayer of the Petition is devoid of merit and the same is liable to be dismissed.

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15 and 16(5) of the RTE Rule, 2010 which is specifically provided that no appointment of teacher for any school can be made in respect of any person not possessing the minimum qualification as prescribed by the academic authority notified under sub-Section (1) of Section 23 of the Act, 2009. Therefore since the Petitioner does not have the requisite qualification to be appointed as Assistant Teacher for which he cannot take the benefit in terms of the government notification dated 22.12.2016 under Annexure-7 to the Writ Petition. Hence, the regularization of the respondent as Level-V Assistant Teacher is not at all tenable in the eye of law due to non-acquisition of the required OTET qualification.

For that it is further submitted that as per Rule

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M) For that as per modalities for regularization of Gana Sikshyaks, there is a condition that, Such Gana Sikshykas is required to pass OTET within 31.03.2019, if he has not passed OTET earlier. If she/he does not pass OTET by such date, she/he will not be eligible to get any further increment after 31.03.2019. That, increment is allowed to Govt. Employees after examination of performance of duty by the Head of Offices. Which clarifies that, such Gana Shikhyaks have to pass OTET within 31.03.2019 to be appointed as Govt. employee. There is no scope further to be appointed as Govt. employee, even if passed OTET

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Rigashace Patlanech, District Education Officer Nayagarth after 31.03.2019. In this instant case, the respondent not passed OTET within the time line fixed by the Govt., hence, the regularization of the respondent as Level-V Assistant Teacher is not at all entitled for regularization.

- N) For that, even otherwise the impugned order passed by the Hon'ble Single Judge is bad, illegal, unreasonable suffers from serious infirmities and unless the impugned order passed by the Hon'ble Single Judge be set aside the appellants will suffer substantial loss, irreparable injury and thereby they will be very highly prejudiced.
- O) For that, as described above, the order dated 11.11.2022 passed by the Hon'ble Single Judge in WPC 19190 of 2022 being a clear error apparent on record, has been passed without taking in to the facts and circumstances of the case and provision of the Act and Rules governing the field. The present intra-court appeal filed by the State of Orissa deserves to be allowed by setting aside/reversing the order dated 11.11.2022 passed in W.P. (C) No. 19190 of 2022.
- P) For that, in view of the aforesaid question of law the appellants invoking the intra-court appellate jurisdiction of this Hon'ble Court to examine the legality and propriety of the order passed by the Hon'ble Single Judge under Annexure-1.

District Education Officer
Navagath



# Rojashree Pathanach, Jisthic Education Officer Navagarh.

### **PRAYER**

It is, therefore, most humbly and respectfully prayed that this Hon'ble Court may graciously be pleased to admit the appeal, call for the records of the writ petition, issue notice to the respondent and after hearing the parties; this Hon'ble Court may graciously be pleased to quash/ set aside the order dated 11.11.2022 passed by the Hon'ble Single Judge in W.P. (C) No. 19190 of 2022.

And may pass such other order/orders as may be deemed just and proper.

And for this act of kindness the appellants as in duty bound shall ever pray.

By the appellants through;

Cuttack. Addl. Standling Bountel

Date: 24-8-23 O/O the A.G., Odisha, Cuttack.

# **CERTIFICATE**

Certified that the grounds set forth above are good grounds involving substantial question of law to be canvassed in this appeal and having prepared and filed. I undertake to support at the time of hearing if instructed.

Further certified that due to non-availability of cartridge papers plain blue papers have been used.

Cuttack. Addl. Stander Geoticale.

Date: 24-8-230/0 the A.G., Odisha, Cuttack.

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# IN THE HIGII COURT OF ORISSA AT CUTTACK W.P.(C) No. 19190 of 2022

Chiranjibi Jayasingh

Petitioner

Mr. Umakanta Sahoo, Adv.

Vs.

State of Odisha and others

Opposite Parties Mr. S. Jena, S&ME

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER 11.11.2022

Order No.

This matter is taken up through hybrid mode.

- 2. Heard.
- 3. It is agreed by learned Counsel for the Parties that the issue involved in this Writ Petition is analogous to W.P.(C) No. 15345 of 2022 (Balabhadra Majhi V. State of Odisha and Ors), which has been disposed of by this Court Oide Judgment dated 11.11.2022
- 4. Therefore, in view of the detailed reasons stated in the Judgment dated 11.11.2022 passed by this Court in W.P.(C) No. 15345 of 2022 (Balabhadra Majhi V. State of Odisha and Ors), this Writ Petition stands disposed of in terms of the said Judgment.

(DR. B.R. SARANGI) JUDGE

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District Education Officer Nayagarh.

Page I of I

### ORISSA HIGH COURT: CUTTACK

# W.P.(C) NO. 15345 OF 2022

In the matter of an application under Articles 226 and 227 of the Constitution of India.

**AFR** 

Balabhadra Majhi

Petitioner

For Petitioner: M.S. Umakanta Sahooland
H.K. Dash, Advocates

For Opp. Parties: Mr. S. Jena,
Standing Counsel (S&ME)

PRESENT: FURTHER THE HONOURABLE DR. SUSTICE B.R. SARANGI

Date of hearing and judgment: 11.11.2022

DR. B.R. SARANGI, J. By means of this writ petition, the petitioner, who is a retired Gana Sikhyaka from Primary School w.e.f. 30.04.2022, has sought for direction to opposite party no.1 for regularization of his service as Level-V Asst. Primary School Teacher, in accordance with

District Education Officer Nayagarh. the notification no.14467-XIII-SME-AE-06/2016/SME dated 25.07.2016 and the notification no.25290-XIIII-SME-AE-06/2016/S&ME dated 22.12.2016 issued by the Department of School and Mass Education, Govt. of Odisha, with effect from the date of his eligibility notionally, without any discrimination, within a stipulated time. He has further sought for direction to the opposite parties to release in his favour the differential arrear salaries with effect from the date of his regularization, along with other retiral benefits, within a stipulated time.

The factual matrix of the case, in a nutshell, is that the Scheme of Non-Rormal Education was initiated vide resolution no 38241 XIII/CE-78/89-EYS dated 29.07.1989 of the Education and Youth Services Department of Odisha. Subsequently, in order to universalize primary education in the deprived areas in a time bound and cost effective manner, the Government of Odisha introduced Education Guarantee Scheme (EGS) and accordingly EGS schools are opened as a substitute

of primary schools. The EGS teachers are designated as Education Volunteer with a fixed amount of monthly honorarium and they are engaged by the Zilla Parishads under Village Education Committees formed for the local EGS schools in the locality. The petitioner was appointed in the locality after facing a selection process. The EGS centres were functioning effectively with effect from the academic year 1989 90. said centres were closed due to improper management, as a consequence thereof, the Department of School and Mass Education, tolifegularize the EGS schools Govt. of Odisha took steps Most of the EGS volunteers and the appointed teacher had been disengaged or facing disengagement. Therefore, Govt. of Odisha took steps to rehabilitate the disengaged EGS volunteers as Gana Sikhyaka under Sarba Sikhya Abhijan. Accordingly, vide resolution no.3358/SME dated 16.02.2008, the State Government floated/initiated the Scheme. Pursuant to the said scheme, the petitioner was rehabilitated as Gana Sikhyaka in the nearby school and, as such, the appointment order was issued by the Zilla

Parishad with certain terms and conditions. Consequentially, the petitioner was continuing in the school. As such, the petitioner is well qualified and has also got Teachers Education Training for two years from Board of Secondary Education, Odisha. Thereby, the petitioner, having satisfied the eligibility criteria, was to be appointed as a regular teacher in the primary school before coming into force the Right of Children to free and 009. As the Covernment did Compulsory Education Ac not appoint any primary (so teacher during the period from 1989 to 2010, the per oner was deprived of getting job elsewhere as regular to

2.1 The Government of Chaia enforced Teachers Eligibility Test vide Gazette notification dated 25.08.2010. Subsequently, in the year 2012, Odisha Teachers Eligibility Test (OTET) was enforced vide resolution no.14302 dated 04.06.2012. As the petitioner had completed his two years training course under the Board of Secondary Education Odisha successfully and had

Volunteer in the EGS School, another competitive examination like OTET may not be required for him, as the teachers standing on the same footing are continuing without the eligibility test. Therefore, OTET ought not to be applicable in the case of the petitioner for his regularization. The petitioner has also obtained +2 Arts certificate from the Council of Higher Secondary Education, Odisha

2.2 The Govt. of Odisharin ST & SC Department issued a gazette notification on 17.10.2013 fixing the guidelines for engagement of Sikhya Sahayak. To provide free and compulsory education to every child of the age group of 6 to 14 years, the State Government took steps for appointment of Sikhya Sahayak, who would be regularized as teachers. Therefore, Government prescribed OTET and other eligibility criteria in the appointments of primary school teachers. But as and when the teachers, who were serving before 2011 are not facing the OTET test

and getting their job satisfaction, whereas the EGS teachers on the same work burden with the same teaching experience were compelled to face the OTET discriminately. As such, there is no difference in the teaching experience between the regular teacher CT qualified and Diploma iτι Elementary Education Examination by the Board of Secondary Education. But that the EGS teachers were getting very only difference is low salary than the regular trackers and most of the EGS teachers are at the verge of the retirement. Therefore, they should not have been deprived of regularization of service. 25:07.2016 and 22.12.2016 Thus, notifications dated were issued by the Department of School and Mass Education for appointment/regularization of those Gana Sikhyaka as Level-V Asst. Teachers (ex-cadre) who do not possess the qualification of passing the OTET. The petitioner got academic qualification, possessed special teachers training by the Board of Secondary Education, Odisha vis-à-vis appointed as a teacher in different EGS schools before enforcement of OTET in the year 2012.



Further, the State Government clarified that Gana Sikhyakas, on completion of eight years of regular and continuous service, would be regularized. As such, in the notifications, referred to above, it was clarified that the persons those who do not pass the OTET examination will not be eligible for further annual increments after 31.03.2019. Thus, the petitioner claimed that he having otherwise eligible for satisfied the eligibility vel-V Asst. Primary School regularization in service been done, the petitioner Teacher. The same having filing the present writ has approached this Cou petition.

3. Mr. Umakant Sahoo, learned counsel appearing for the petitioner vehemently contended that putting restriction of acquisition of OTET qualification for regularization of service, so far as Gana Sikhayaka is concerned, is arbitrary, unreasonable and contrary to the provisions of law. It is contended that when the petitioner was appointed as Education Volunteer in the EGS School

and on abolition of the EGS he was posted as Gana Sikhyaka and was having requisite qualification along with training experience, his service should have been regularized as Level-V Asst. Primary School Teacher. But the same was denied, as because he had not acquired the OTET qualification, which was only introduced in the year 2012. It is further contended that appointment of the petitioner as Gana Sikhyaka may be considered as irregular but cannot be construed to be illegal and, as such, by this process, he's iould not have been denied the benefit of regularization ice. It is contended that though Section-23 of the Right of Children to free and Compulsory Education, Act, 2009, prescribes minimum qualification for appointment of teachers in the primary schools, but that ipso facto cannot be a ground to deny regularization of service of the Gana Sikhyakas, who do not possess the qualification of passing OTET for regularization as Asst. Teacher (ex-cadre) in Level-V of the Government.

It is further contended that in the notification . 3.1 dated 22.12.2016 issued by the School and Mass Education Department modalities have been fixed for regularization of Sikhaya Sahayaks, which prescribes that the Gana Sikhyakas who have completed eight years of regular and continuous engagement and have possessed educational and training qualification mentioned in Para will be regularized as Level-V (2) of the said notification, Asst. Teacher (ex-cadre) consider to Level-V teacher of Elementary cadre. In Para 216 of the said notification it has been prescribed that Gana Sikhyaka has not passed the OTET within 31 March, 2019. then he/she will not get any further increment after 31 st March, '2019. Thereby, it is contended that acquisition of OTET qualification is only for availing incremental benefits after 31st March, 2019 and, as such, it has nothing to do in the matter of regularization. Therefore, the restriction imposed by the authority for regularization of service in the primary school is arbitrary, unreasonable, contrary and violative of Articles 14, 19 and 21 of the Constitution of India.

To substantiate his contention, he has relied upon the judgment of the apex Court in the case of Chander Mohan Negi v. State of Himachal Pradesh, 2020 (I) OLR (SC) 865.

4. Jena learned Standing Counsel for School and Mass Education Department vehemently who have acquired contended that Gana higher qualification collegiate candidate by as obtaining permission from inpetent authority, i.e., Collector or District Project Coordinator can only be considered for regularization farification to that effect been given in the department letter dated 20.09.2017. It is contended that the SPD, OSEPA issued a circular on 07.04.2010 intimating that the Collector is the competent authority to issue permission to Gana Sikhyakas for obtaining higher qualification. From 16.02.2008 07.04.2010, there was no instruction issued by the

competent authority to issue permission for obtaining higher qualification. Therefore, it was considered to allow permission issued by others like C.I. of Schools, D.I. of Schools, BDOs, S.I. of Schools, BRCCs and HMs during the period from 16.02.2008 to 07.04.2010 and after 07.04.2010, permission from the competent authority was only considered. Although case of some of the candidates ion in service, but so far as was considered for regulariza ncerned, it is contended he the case of the petitione had approached the Col Navagarh by filing Misc. o regularize his service as Case No.1/2018 with a pr Level-V Asst Teacher (ex The Collector, vide order dated 01.01.2018, passed order in the said Misc. Case directing the District Education Officer, Nayagarh not to take any decision on regularization of Gana Sikhyaka until further orders. But the said Misc. Case was disposed of by the Collector, vide order dated 20.04.2018, holding that there was no justification by the District Education Officer not to include the name of the petitioner to regularize his service.

4.1 After the order dated 20.04.2018 was passed by the Collector, this Court, while entertaining a public interest litigation filed by Odisha Vikash Parishad. Bhubaneswar bearing W.P.(C) No. 4684 of 2018, passed interim order directing the authorities not to regularize any Gana Sikhyaka as Level-V Asst. Teacher, as per notification dated 22.12-2016, who does not possess OTET qualification. By writ petition was dismissed, as withdrawn consequence thereof, taking into consideration isions confained in Right of Children to Free and C sory Education Act, 2009 as well as the Odisha of Children to Free and Compulsory Rules, 2010, Education whereby appointment of a teacher elementary cadre minimum qualification has been prescribed by the academic authority as passing of Teachers Eligibility Test (TET) is mandatory and, therefore, acquisition of requisite qualification having OTET qualification is required for ' absorption as regular primary teacher in terms of government notification dated 22.12.2016 and, as the

petitioner had not possessed the OTET qualification till his date of retirement, his service was not regularized.

Consequentially, he seeks for dismissal of the writ petition.

To substantiate his contention, Mr. S. Jena, learned Standing Counsel for School and Mass Education Department has relied upon the judgment of the apex Court in the case of State of Uttar Pradesh v. Anand Kumar Yadav, (2018) 13 Sec. 560 and State Bihar v. Arbind Jee 2021 SCC Online SC 821.

5. This Court heard Mr. Umakant Sahoo, learned counsel appearing for the petitioner and Mr. S. Jena, learned Standing Counsel for School and Mass Education Department by hybrid mode and perused the records. Pleadings having been exchanged between the parties, with the consent of learned counsel for the parties this writ petition is being disposed of finally at the stage of admission.

- 6. In the facts and circumstances, as narrated above, now it is to be considered whether the petitioner, who was serving as a Gana Sikhyaka having requisite academic and training qualifications, is entitled to be regularized in service as Level-V Asst. Teacher under the Government, even in absence of OTET qualification.
- 7. no dispute that the petitioner was appointed as an Education olunteer under the EGS and after abolition of the said e, he was absorbed as a Gana Sikhyaka and also red higher qualification of +2 Arts from Council of Secondary Education. Odisha and training qualification from the Board of Secondary Education Odisha-For just and proper adjudication of the case, Section-23 of the Right of Children to Free and Compulsory Education Act, 2009 is extracted hereunder:-

"Qualifications for appointment and terms and conditions of service of teachers are clarified as "-(1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorized by the Central Government, by notification, shall be eligible

for appointment as a teacher, (2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification: Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years. (3) The salary and allowances payable to, and the terms and conditions of service of, teachers shall be such as may be prescribed."

On perusal of the aforementioned provisions; it is made clear that any person possessing such minimum qualification, as laid down by the academic authority, authorized by the Central Government, by notification, shall be eligible for appointment as a teacher. It is also provided that where there is no adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualification as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may relax the

minimum qualifications required for appointment as a teacher for such period not exceeding five years, as may be specified in the notification.

8. Referring to Section-23, as mentioned above, National Council for Teacher Education issued a notification on 23.08.2010 fixing minimum qualification from Classes-I to V, which is extracted hereunder:-

"]. Minimum Oualifications

(t) Classes I-V

(a) Serior Secondari Stor its equivalent) with at least 50% marks and 2- year Diploma in Elementary Education (by Whatever name known)

Senior Secondary (or its equivalent) with at least 45% marks wand 2-year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.El. Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

#### AND

- (b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose."
- notification, having been 9. The aforesaid published on 23.08.2010, has got prospective effect and, as such, there is no dispute that the petitioner was appointed as a Education Volunteer under the EGS and after abolition of the said scheme, he was appointed as mencement of the Right of Gana Sikhyaka prior to Children to Free and Compulsory Education Act, 2009, fication was issued on basing upon which which white acquisition of OTET 23.08.2010, qualification was not made mandatory. But fact remains, the petitioner had got the minimum qualification for appointment as a teacher and also acquired training qualification from the Board of Secondary Education, Odisha and, thereby, he was otherwise eligible to be appointed as a teacher in a primary school.

10. It is of relevance to note that by resolution dated 04.06.2012 in Annexure-6, Government of Odisha in Department of School and Mass Education, taking into account the notifications dated 23.08.2010 29.07.2011 issued by the National Council of Teacher, Education, being the academic authority, laid down Class-I to VIII as the minimum qualification for a person to be eligible for teacher. As such, the State Government passed the aforesaid resolution by introducing OTET qualific tion for appointment of teacher and in the said resoluti nder Clause 4 eligibility criteria were fixed for appearing in the OTET examination, which read as under:

## "Eligibility

- (i) Persons having the following minimum qualifications shall be eligible for appearing in OTET.
  - (a) Category-A
    Higher Secondary (+2 or its equivalent)
    with at least 50% marks and 2-year
    Diploma in Elementary Educations (CT)
    OR

Higher Secondary (+2 or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

OR

Graduation and 2-year Diploma in Elementary Education/2-year Diploma in Special Education.

(b) Category-B

Graduation with at least 50% marks and 1-year Bachelor in Education (B.Ed.).

OR

Graduation with 50% marks and 1-year B.Ed. (Special Education)

OR

Higher Secondary (+2 or its equivalent) with at least 50% marks and 4-year B.A. Ed./B.Sc.Ed.

Provided that relaxation of 5% in miritimum equalifying marks in +2 or graduation level, as the case may be, shall be allowed to the carididates belonging to SEBC (SEBC category.

Provided further that candidates having minimum marks in +2 or graduation level tas the case may be, prescribed at the time of admission in teacher education courses shall also eligible to appear in OTET.

- (ii) Persons who are pursuing (final year) any of the leacher education courses (recognized by the NCFE or by the RCI, as the case may be) specified above in both the categories.
- (iii) Persons declared eligible by the State Govt. / NCTE/ Govt. of India from time to time."
- 11. The aforesaid resolution will have to apply prospectively. The teachers, who were appointed prior to

2011, were to be exempted from OTET test. As such, since the petitioner was continuing in the teaching job before 2011, he ought to have been exempted from OTET test at par with similarly situated employees, whose services were regularized as Asst. Teachers from Gana Sikhyaka. Therefore, considering the demand raised by the Gana Sikhyakas, a Ministerial Sub-Committee was constituted under the Chairmanship ster. Finance and Public Enterprises, vide of 10-17420/S&ME dated 21st August, 2015, and on th of the recommendations made by the said committee Government resolved the demands of Gana Sikhiyakas vide resolution dated 25.07.2016, Clauseof which hereunder:-

<sup>&</sup>quot;1. Ganasikshyaks, who have +2/ Degree qualification with either C.T. /B.Ed. and who have completed eight years of continuous and satisfactory engagement will be regularized as "Elementary Level-V teachers" in the year 2016-17 after detail modalities on regularization are worked out by the Government in School and Mass Education Department.

<sup>2.</sup> On regularization as Elementary Level-V teacher, they will be entitled to salary in the

Pay Scale of Rs. 5,200-20,200/- with Grade Pay of Rs. 2,200/- with D.A. and other allowances as admissible from time to time.

- 3. Ganasikshyaks having no requisite academic qualification of +2/Degree and training qualification of either C.T. or B.Ed. shall not be regularized as Elementary Level-V teachers.
- 4. Ganasikshyaks having no requisite academic and training qualification shall acquire the required academic/training qualification by 31<sup>st</sup> March, 2018 positively. No further relaxation shall be considered thereafter.
- 5. Ganasíkshaks who will not be able to acquire the requisité academic and training qualification by 31st March 2018, shall be disengaged on 1st April 2018."

In terms of the above resolution, if a teacher has requisite academic and training qualifications, his services should have been regularized as Level-V Asst. Teacher.

- 12. The Government in School and Mass Education Department issued a notification on 22.12.2016, pursuant to resolution dated 25.07.2016, formulating the modalities for regularization of Gana Sikhyakas. Clause-1 and 2 of the said notification 22.12.2016 read as under:-
  - "1. The Gana Sikshyaks who have completed 8 years of regular and continuous engagement and have possessed educational

und training qualification as mentioned at Para (2) below will be regularized as Level- V Assistant Teacher (ex-cadre) equivalent to Level-V teacher of Elementary cadre.

- 2. For regularization as Level-V Assistant Teacher (ex-cadre), a Gana Sikshyak must be possessing educational and training qualification as given below:
- (a) (i) Higher Secondary (+2 or its equivalent) and 2 year Diploma in Elementary Education (C.T.) or Higher Secondary (+2 or its equivalent) and 2-year Diploma in Education (Special Education); or Graduate in Arts/Science and 2 year Diploma in Elementary Education or Graudate Arts/Science and 2 year Diploma rin Education (special Education); and mustiple Udic as M.I.L. up to Class-VII or passing Odia language test equivalent to M.E. standard conducted, or declared equivalent by BSE (Odisha); or
- (ii) Graduation in Aris Science and 1 year Backelor in Education (B.Ed.) or Graduation in Aris Science and In Year B.Ed. Special Education); or Higher Secondary (+2 or its equivalent) and 4 years Backelor in Elementary Education of Higher Secondary (+2 or its equivalent) and 4 years B.A./B.Sc. or B.A. /B.Sc. Ed., and must have Odia as M.I.L, up to Class-X or pass in Odia language test equivalent to Xth standard conducted, or declared equivalent, by BSE (Odisha).
- (b) Such Gana sikshyak is required to pass OTET within 31st March, 2019 if he has not passed OTET earlier. If she/ he does not pass the OTET by such date, she/ he will not be eligible to get any further increment after 31st March, 2019.

Explanation:-

- (i) For the purpose of equivalency of Higher Secondary (+2), examination conducted by the institutions declared equivalent by the Council of Higher Secondary Education, Odisha shall be considered.
- (ii) For the purpose of equivalency of 2 years Diploma in Elementary Education, examinations conducted by the institutions declared equivalent by the Board of Secondary Education, Odisha shall be considered.
- (iii) For the purpose of 2 years Diploma in Education (Special Education)/ one year B.Ed. (Special Education), a course recognized by the Rehabilitation (Council of India (RCI) shall be considered.
- (iv) For the purpose of Degree in Teacher Eddication (B.Ed.) B.Ed. Degree of other Universities (declared by equivalent with corresponding degree) of the Universities of Odisha and a course recognized by the NCTE shall be conducted in the NCTE.

clear that Gana Sikhyakas, who have completed eight years of regular and continuous engagement and have possessed educational and training qualification, will be regularized as Level-V Asst. Teacher (ex-cadre) equivalent to Level-V Teacher of Elementary cadre. As such, there was no provision for debarring the Gana Sikhyakas, having no OTET qualification, from regularization as Level-V Asst. Teacher. Clause-2(b) of aforesaid notification

prescribes that the Gana Sikhyaka is required to pass OTET within 31st March 2019, if he has not passed OTET earlier. If she/he does not pass the OTET by such date, she/he will not be eligible to get any further increment after 31st March, 2019. Thereby, restriction has been imposed that Gana Sikhyakas, having no OTET qualification, will not be eligible to receive the increment and, as such, there is no bar for regularization of their service, even though they no ONE qualification, that too till 31st March 201930n the basis of Government letters dated 22.12.2016 1.2017, 27.05.2017 and ientary Education, a list of 27.07.2017 of Director, Elen 487 trained Gana Sikhyakas, who were found eligible for appointment as Level-V Ceacher, was sent to the Directorate, vide letter dated 10.08.2017, for favour of necessary action. Besides, a copy of the proceedings of the selection committee meeting held on 06.07.2017 and 05.08.2017 under the Chairmanship of Collector-cum Chairman, District Selection Committee was also sent to the Directorate. Prior to approval of the selected Gana

Sikhyakas as Level-V Asst. Teacher, the SPD, OPEPA, vide letter dated 24.08.2017, directed the DPC, Nayagarh for publication of the list and bio-datas in his office notice board and invite objection, if any, from the stakeholders, if something noticed by them after proper scrutiny. But after scrutiny of the list of eligible Gana Sikhyakas, a verified list of trained Gana Sikhyakas was prepared again. Accordingly, the ment in School and Mass Education Department co reved the creation of 563 nos. of posts of Level-V Asst. Teacher in respect of Nayagarh 2017. Before issuance of district, vide letter dated inds of the Gana Sikhyaka appointment order on the de Mahasangha, the Government issued a clarification letter relating to validity of permission given to them by departmental official for prosecuting higher qualification, letters dated 20.09.2017 and 23.09.2017 vide respectively, Clauses-(a) and (b) of which are extracted hereunder:-

"a. The Gana Shikhyakas who have acquired higher qualification as non-collegiate candidate by obtaining permission from

Competent Authority i.e. Collector or DPC can only be considered for regularization.

The clarification given at point No. 3 of the Department Letter No. 17960 dated 20.09.2017 is hereby explained further. SPD,OSEPA issued a circular on 07.04.2010 intimating that Collector is the competent authority to issue permission to Gana Shikhykas for obtaining higher qualification. From 16.02.2008 to 07.04.2010, there was no instruction issued on competent authority to permission for obtaining qualification. In view of the above it is considered to allow the permission issued by others like Gl of schools, D.L of Schools, BDOs 5 1, of Schools, BRCCs and HMs during 16.02.2008 to 07.04.2010. After 07.04.2010, permission from the competent authority only be considered.

candidates, including the petitioner, who were found not eligible for appointment as Level-V Asst. Teacher (excadre), was drawn after proper scrutiny and duly approved by the Collector-cum-Chairman, District Selection Committee, Nayagarh. Thereafter, the petitioner approached the Collector, Nayagarh by filing Misc. Case No.1/2018, which was disposed of vide order dated 20.04.2018, with the following directions:-

"The D.E.O., Nayagarh is instructed not to delay any further to regularize the case of the petitioners. The entire process should be completed by 15.052018 and compliance be reported. The other debarred candidates of similar nature should be considered along with these petitioners."

15. In the meantime, in W.P.(C) No. 4684 of 2018, which was filed by Odisha Vikash Parishad, Bhubaneswar in the nature of Public Interest Litigation, this Court directing the authorities not to regula Gana Sikhyakas, does not possess OTET qualification, as Level-V Asst. Teacher under the notification dated 22.12.2016 and, as be allowed to continue such, the Gana Sikhyak subject to final result of But, ultimately, the said writ petition was withdrawn and, thereby, the interim order passed in the said writ petition no more subsists. As a consequence thereof, a right accrued in favour of the petitioner for regularization in service as Level-V Asst. Teacher along with consequential benefits. The same having not been acceded to, the petitioner has

approached this Court by filing the present writ petition. But fact remains, the petitioner does not possess OTET qualification and, as such, he has been absorbed as Gana Sikhyaka much before the Right of Children to Free and Compulsory Education Act, 2009 came into force and subsequent instructions issued from time to time. If the reserence made in Sub-clause (2) of the circular dated 22.12.2016 will be kaken consideration, it only provides that a Gana Sikhyaka is required to pass OTET within 31sy March 2019 16 he has not passed OTET earlier. If she/he does not pass the OTET, by such date. she/he will not be eligible to get any further increment aster 31st March, Thereby, there is no bar to regularize the service of a Gana Sikhyaka, having no OTET qualification. Rather, the said sub-clause states that in the event a Gana Sikhyaka acquired OTET qualification, he is only entitled to get the increment.

16. In *Chander Mohan Negi* (supra), the apex Court held that appointments of teachers made as per the

schemes notified by the Government cannot be treated as illegal, if at all they can be considered irregular, even though condition has been included that such appointees should not seek regularization/absorption. It is held that fault of them, they for cannot denied regularization/absorption. In view of the requirement of the State, their services were extended from time to time vercompleted more than 30 and now all the ppointees ha years of service in differe hemes and some of them acquired higher qualificati ind training qualification. Thereby, denial of reg cannot have any justification and, as su condition of passing of OTET will not stand as a bar for regularization of the petitioner, when the State for its own requirement has extended the term of appointment from time to time and, as such, appointees have continued for more than 30 years in the post. In view such position, the judgment of the apex Court, is directly applicable to the present case.

- 17. So far as the judgment relied upon by the learned Standing Counsel for School and Mass Education Department in the case of Anand Kumar Yadav (supra) is concerned, in the said judgment the apex Court has taken into consideration the regularization/absorption of Sikhya Mitra's and it has been held that Sikhya Mitras do not have any legal right for regularization, as they neither even qualification under 2001 egulations were they sts. For mere contractual appointed against sanction appointment, their service not be regularized. The ratio of this case is totall Adistinguished from Chander Mohan Negi (supra) As such, the fact of Chander Mohan Negi (supra) is full y applicable to the present case. Thereby, the judgment cited by the learned Standing Counsel for School and Mass Education Department has no assistance to the present opposite parties.
- 18. Likewise, the judgment cited by learned Standing Counsel for School and Mass Education

Department in the case of **Arbind Jee** (supra) is factually different from the present case and, thereby, the same is not applicable to the case at hand.

Taking into consideration the factual and legal 19. aspects, as delineated above, this Court is of the considered view that the opposite parties cannot deny the benefit of regularization of service to the petitioner as Level-V Asst. Teacher, as the petitioner has got requisite academic qualification and chasi also acquired training qualification and otherwise also satisfies the eligibility efore, for non-acquisition of criteria for regularization Ther OTET qualification, he cannot be denied the benefit of regularization. If the peritioner has not acquired the OTET qualification by 31th March 2019, he may not be entitled to incremental benefit, but that ipso facto cannot deny the benefit of regularization to him. Accordingly, this Court directs the opposite parties to regularize the service of the petitioner as Level-V Asst. Teacher on completion of eight years as Gana Sikhyaka, as per the notification dated

22.12.2016. As he has already retired from service, he should be extended such benefit notionally from the date of completion of eight years as Gana Sikhyaka by regularizing his service as Level-V Asst. Teacher. Since the petitioner has already retired, his pension be revised and he should be granted pensionary benefits in the revised scale of pay admissible to him by fixing the same notionally, as expeditiously as possible, preferably within a period of three months from the date of communication of this judgment.

20. In the result, the writ petition is allowed.

However, there shall be notorder as to costs.

ORISSA

DR. B.R. SARANGI, JUDGE

Orissa High Court, Cuttack The 11<sup>th</sup> November, 2022, Ashok/GDS

> ોાગાંદા Education Officer Nayagarh.

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# IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) No 19190 of 2022

Code No. 310200

Chiranjibi Jayasingh ...

Petitioner

Versus

State of Odisha & others ...

Opposite Parties

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SL No	Description of Documents	Annexure	Page
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	EYS dtd 29.07.1989 of the Education & Youth	:	
	Services Department of Odisha for		
	appointment of EGS teachers	,	
3	copy of the Govt RESOLUTION No 3358 /	2	19-21
	SME Dt. 16.02.2008 about to rehabilitate of		
	EGS teachers as Gana Sikshaka		
• 4	Copy of the Appointment Order	3	22
5	copies of his educational certificates and	4	23-25
	relating to teachers' training		
6	one set copy of the notification No 14467-	5	26-27
	XIII-SME-AE-06/2016/SME dated 25.07.2016		
7	one set copy of the Govt Notification No	6	28-32
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8	one set copy of the notification No 25290-XIII-	7	33-36
	SME-AE-06/2016/S & ME dated 22.12.2016		
9	Copy of the representation and postal receipt	88	37
	VAKALATNAMA		

By the petitioner through

Cuttack

Date

(M. Umakani ibahuu) ADVOCATE

District Education Officer Navagarh.



# IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) No 19190 of 2022

Code No. 310200

Chiranjibi Jayasingh ...

Petitioner

Versus

State of Odisha & others ...

Opposite Parties

### **SYNOPSIS**

The petitioner (Gana Sikshyaka), precious period of last more than 14 years of his early life devoted in the teaching services of the State Government, now rendered 'age barred' for securing a job elsewhere. As he has all eligibility for the teaching in primary school, but the Govt delayed for his regularisation in service in accordance with the Govt Notification, as the constitutional philosophy in Art. 41 of the Constitution.

DATE	EVENTS	REMARKS
29.07.1989	Education Guarantee Scheme come into force	
16.02.2008	Disengagements of Edu Voluntaries and	
	Rehabilitation as Gana Sikshyakas	
_09.07.2008	Appointment as Gana Sikshyak	
23.08.2010	Notification of Central Govt for minimum	
	qualification of the teachers	
04.06.2012	Guidelines of the OTET	
17.10.2013	Guidelines for engagements of Sikshya	
	Sahayakas	
O4.12.2013	Resolution about demands of Gana Sikshyaks	
25.07.2016	Resolution about regularisation of Gana	
	Sikshyaks	
22.12.2016	Resolution about regularisation of Gana	
	Sikshyaks	

By the petitioner through

Cuttack

Date

(Mr. Unakani Sahad) ADVOCATE

## APPENDIX-I

# CHAPTER-XV, Rule 3(1)

# IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) No 19190 of 2022

Code No. 310200

In the matter of:

An application under Article 226 and 227 of the Constitution of India, 1950

### AND

### In the matter of:

The petitioner, a Gana Sikshyaka, precious period of last more than 14 years of his early life devoted in the teaching services of the State Government, now rendered 'age barred' for securing a job elsewhere. Unfairly used him, generate hope and a feeling of security in him, attune his family to live within his earnings, though having eligibility for the teaching in primary school, but the Govt delayed his regularisation in service, compelling to face OTET at his middle age of retirement would run counter to the constitutional philosophy in Art. 41 of the Constitution.

### AND

in the matter of:

Chiranjibi Jayasingh aged about 50 years S/o Pravakara Jayasingh presently as a Gana Sikshyak in Govt U.P. School, Komanda (B), AT-Komanda, PO-Godipada, PS-Saranakul, Dist-Nayagarh; ... ... Petitioner

**VERSUS** 

Chiransibi Joyalngh

- 1. State of Odisha represented by the Principal Secretary to Government of Odisha, Department of School and Mass Education, Odisha, Lok Seva Bhavan, Bhubaneswar, Dist-Khurda, Pin-751001;
- 2. Director, Elementary Education, Odisha, Heads of Departmental Buildings, Odisha, Bhubaneswar, Khurda.
- 3. The District Magistrate & Collector, Nayagarh District, AT/PO/Dist-Nayagarh-752069;
- 4. District Education Officer, Nayagarh District, AT/PO/Dist-Nayagarh-752069. ... OPPOSITE PARTIES

TO

THE HON'BLE CHIEF JUSTICE OF ORISSA HIGH COURT,
CUTTACK AND HIS LORDSHIP'S COMPANION JUSTICES OF
THE SAID HON'BLE COURT.

THE HUMBLE PETITION OF THE ABOVE NAMED PETITONER

## DETAILS OF THE APPLICATION

- 1. Particulars of the cause/order against which the Petition is made:
  - (1) Date of Order/ Notification/Circular/ Policy/ Decision etc:
  - (2) Passed in (case or File Number):
  - (3) Passed by (Name and designation of the Court, Authority, Tribunal etc):
  - (4) Subject matter in brief:

The petitioner, Gana Sikshyakas, precious period of last more than 14 years his early life devoted in the teaching services of the State Government, now rendered 'age barred' for securing a job elsewhere. Unfairly used him, generate hope and a feeling of security in him, attune

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his family to live within his earnings, though having eligibility for the teaching in primary school, but the Govt delayed his regularization in service, compelling to face OTET at middle of his service would run counter to the constitutional philosophy in Art. 41 of the Constitution.

2. Declaration that no proceeding on the same subject matter has been previously instituted in this Hon'ble Court or any other Court, Authority or Tribunal.

THE MATTER OUT OF WHICH THIS WRIT PETITION ARISES WAS NEVER BEFORE THIS HON'BLE COURT IN PRESENT FORM OR ANY OTHER COURT, AUTHORITY OR TRIBUNAL AS PER INSTRUCTION;

3. Facts of the Case:
MOST RESPECTFULLY SHEWETH:

3.1- That, the petitioner, presently Gana Sikshyak in the Primary School, challenge the legality and validity of the act of the STATE for not regularization of his post as Level-V Assistant Teacher (Ex-Cadre) discriminately vis-à-vis for compelling him to pass the Odisha Teacher Eligibility Test (hereinafter called as "OTET"), though on similar footing other teachers are being allowed to get all service and financial benefits as Assistant Teacher (Grade-V). Most of them are now at the verge of retirements and lost their inspiration to face such type of competitive Examination. This petitioner has well been qualified and got teachers training from the Board of Secondary Education; having more than 14 years' teaching experience and discharging his duties and responsibilities as a primary school teacher. He has all eligibility to be regularized in accordance with the Notification No 25290-

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XIII-SME-AE-06/2016/S & ME dated 22.12.2016 issued by the Department of School and Mass Education, Govt of Odisha. Now he has not been regularized and going to be deprived of getting retirement benefits by the State. The precious period of early life of the petitioner devoted in the teaching services of the State Government are wholly wasted and he may be rendered 'age barred' for securing a job elsewhere. It is indeed unfair to use him, generate hope and a feeling of security in him, attune his family to live within his earnings and such behavior would be an affront to the concept of job security and would run counter to the constitutional philosophy, particularly the concept of right to work in Art. 41 of the Constitution. The spirit and philosophy of the Constitution, which follows the employee who is serving on the establishment for long spells and have the requisite qualifications for the job, should not be thrown out but his services should be regularized. Therefore, the petitioner invokes the extraordinary jurisdiction, as the act of the state being illegal, ultra vires and violative of fundamental rights as guaranteed in Articles 14,19 and 21 of the

Constitution of India.

3.2- That the petitioner is a law abiding and peace-loving citizen of India. The cause of action as arises in this case is within

3.3- That it is respectfully submitted that the scheme for Non-Formal Education was initiated vide the resolution No 33241 - XIII/CE-78/89 EYS dtd 29.07.1989 of the Education & Youth

the territorial jurisdiction of this Hon'ble High Court.

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Services Department of Odisha. In the Education Guarantee Scheme (hereinafter called as "EGS") the Govt commitment to universalize primary education in the deprived areas in a time bound and cost-effective manner. EGS Schools are opened as a substitute of primary schools. The EGS teacher is designated as Education Volunteer with a fixed amount of monthly honorarium of Rs 1000/-. They are engaged by the Zilla Parisad under Village Education Committee formed for the local EGS School in the locality. Rs 469/- and Rs 500/- were provided per year for each EGS school. Accordingly, the petitioner is being appointed in the localities after facing a selection process. The scheme was initiated in the year 1989. The EGS centers had been functioned effectively in the academic year 1989-90. After 5/10 years the centres were not properly managed and closed. Annexed hereto and marked as Annexure-1 is a copy of the resolution No 33241-XIII/CE-78/89 29.07.1989 of the Education & Youth Services Department of Odisha for appointment of EGS teachers.

3.4- That, it is further humbly submitted that the Department of School & Mass Education, Government of Odisha had taken steps to regularize the EGS schools and the appointed teachers. Most of the EGS volunteers had been disengagedor facing disengagement presently. The noble Government of Odisha had taken steps to rehabilitate the disengaged Education Volunteers as Gana Sikshyaka under Sarba Sikshya Abhijan. In the Govt RESOLUTION No 3358 / SNE

Dt. 16.02.2008 the Noble State Government had floated /initiated the scheme. In accordance with the scheme this petitioner had been rehabilitated as "Gana Sikshaka" in different nearby schools. The appointment order was issued by the orders of Zilla Parisad with some certain terms and conditions. Annexed hereto and marked as **Annexure-2** is a copy of the Govt RESOLUTION No 3358 / SME Dt. 16.02.2008 about to rehabilitate of EGS teachers as Gana Sikshaka and **Annexure-3** is a copy of his appointment order.

3.5- That, as regards in the Section 23 of the THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009 Qualifications for appointment and terms and conditions of service of teachers are clarified as "-(1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher. (2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers; the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification: Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years. (3) The salary and allowances payable to, and the terms and conditions of service of, teachers shall be such as may be prescribed."

3.6- That it is pertinent to submit that the petitioner is well qualified getting a training for 2-year full time in the

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Secondary Teachers' Training Certificate Examination in the year 1997 under the Board of Secondary Education, Odisha., he has been well trained for the primary level teaching after completing +2 (Higher Secondary Education). He has eligibility to be appointed as a regular teacher in the primary schools before coming THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009. As the Govt had not appointed any primary school teachers in the year from 1989 to 2010, as they had been deprived of getting job elsewhere as regular teachers like others. The Union Govt of India had enforced Teachers Eligibility Test vide the Gazette of India notification dtd 25.08.2010 and subsequently in 2012 Odisha Teacher Eligibility Test (OTET) had been enforced VIDE Resolution No 14302 dtd 04.06.,2012. As the petitioner has completed his 2-year training course under the Board of Secondary Education, Odisha successfully and having teaching experience since his appointment as Education volunteer in the EGS schools, thereafter another competitive exam like OTET is not required for him. On the same footing other teachers are continuing without eligibility test, therefore the OTET ought not to be applicable in case of the petitioner for his regularization. Annexed hereto and marked as Annexure-4 are copies of his educational certificates and relating to teachers' training.

3.7- That it is respectfully submitted that on 17.10.2013 by a Gazette Notification the Noble State Government of Odisha

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had been pleased to notify the guidelines for engagement of Sikshya Sahayak. To provide free and compulsory education to every child of the age group of 6 to 14 years the noble State Government of Odisha had taken steps for appointment of Sikshya Sahayak, who would be regularized as teachers. Therefore, the Govt had prescribed for OTET and other eligibility criteria in the appointments of primary school teachers.

3.8- That it is respectfully submitted that as and when the teachers, who are serving before 2011, are not facing the OTET test and getting their job satisfaction; whereas the EGS teachers on the same work burden with the same teaching experience, being compelled to face the OTET discriminately. There is no difference in the teaching experience between the regular teacher CT qualified and Diploma in Elementary Education Examination by the Board of Secondary Education, but difference is that the EGS teachers were getting very low salary than to the regular teachers. Most of the EGS teachers are at the verge of retirement, therefore they ought not to be deprived of to get a job satisfaction at the end of their service. After age of 40 years, one may not have spirit to face a competitive or technical examination like OTET. Therefore, the EGS teachers, presently rehabilitated Gana Sikshyaka ought to be exempted from OTET test as like as the teachers working before the year 2011.

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3.9- That it is further respectfully submitted that the precious period of early life of the petitioner devoted in the teaching services of the State Government is wholly wasted and he may be rendered 'age barred' for securing a job elsewhere. It is indeed unfair to use him, generate hope and a feeling of security in him, attune his family to live within his earnings and such behaviour would be an affront to the concept of job security and would run counter to the constitutional philosophy, particularly the concept of right to work in Art.

41 of the Constitution. The spirit and philosophy of the Constitution, which follows the employee who is serving on the establishment for long spells and have the requisite qualifications for the job, should not be thrown out but his services should be regularized.

3.10- That it is pertinent to submit that one petitioner under the name and style as Odisha Vikash Parisad has filed a Public Interest Litigation (W.P.(C) NO 4684/2018). In this PIL the petitioner prays to quash the regularization /appointment of Gana Sikshyakas as Level -V Assistant Teacher (Ex-Cadre) pursuant to Notification No 17885/SME dated 18.09.2017, so far, the appointment / regularization of GANA SIKHSYAKAS who have not qualified OTET. While the petitioner challenges the same, he has not taken the other legal aspects into his averments. Lastly this Writ Petition

was dismissed as withdrawn on 13.07.2021.

The notification No 14467-XIII-SME- $\Lambda$ E-06/2016/SME dated 25.07.2016 and the notification No 25290-XIII-SME-AE-06/2016/S &

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ME dated 22.12.2016 issued by the Department of School and Mass Education are statutorily came into the force. The Government of Odisha for appointment /regularization of Gana Sikshyakas as Level-V Asst Teachers (ex-cadre) for those Gana Sikshyakas who do not possess the qualification of passing the OTET are not violating Sec 23 (1) of the Right of Children to Free and Compulsory Education Act 2009 (hereinafter called as "RTE Act 2009".

The petitioner has got academic qualification and possessed special teachers training by the Board of Secondary Education, Odisha vis-à-vis he has been appointed as a teacher in different EGS schools before the enforcing OTET in the year 2012. Therefore, his teaching experience till the date of notification for the OTET ought not to be ignored. Annexed hereto and marked as <u>Annexure-5</u> is one set copy of the notification No 14467-XIII-SME-AE-06/2016/SME dated 25.07.2016

That relaxion of any minimum qualification under Section 23 (2) of the RTE Act by the Central Government in case of this petitioner is not required as he is observing his duties and responsibilities as an EGS teacher before the notifications in the year 2016. The OTET guidelines come into force vide Govt Notification No 14302 dtd 04.06.2012, but this petitioner is in the teaching job before the notification. Annexed hereto and marked as <u>Annexure-6</u> is one set copy of the Govt Notification No 14302 dtd 04.06.2012 for the OTET.

That in the notification No 25290-XIII-SME-AE-06/2016/S & ME dated 22.12.2016 the State Government has clarified that completed 8 years of regular and continuous engagement as Gana Sikhyakas would be regularized, which is correct and no way vitiated. Annexed hereto and marked as <u>Annexure-7</u> is one set copy of the notification No 25290-XIII-SME-AE-06/2016/S & ME dated 22.12.2016.

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That it is also clarified in the notification that those do not pass the OTET will not eligible for further annual increments after 31.03.2019. There is no contradictory, but given opportunity to the teachers (Gana Sikshyakas) who have served as such for more than 8 years in the school. Therefore there is no illegalities in the State Government's Notifications in the year 2016.

That the petitioner has already been appointed before coming to force the RTE Act, 2009. The teachers, who have been appointed before 2011 are being exempted from the OTET test. As this petitioner is continuing in the teaching job before the year 2011, so he ought to be exempted from the OTET test at par.

That as the Gana Sikshyakas have been appointed by a proper selection process before 2009 and continued more than ten years in the teaching profession in the different primary schools, therefore this petitioner has all eligibility to continue as a primary school teacher.

That some Gana Sikshyakas have been regularized without OTET, therefore not regularizing this petitioner discriminately is challenged in this writ petition. Though the petitioner has filed his representations, but the Opposite Parties are callous and neglecting by abuse of power in their control. Annexed hereto and marked as Annexure-8 is copy of the representation and a postal receipt.

- 4. Grounds for relief with legal provision:
  - A) For that the State Govt Notification under Annexure-5 and 7 are no way vitiated in accordance with Section 23(2) of

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RTE Act, 2009. The Petitioner's service ought to be regularized in accordance with the Notification.

- B) For that on similar footing other Gana Sikshyak are being regularized, but this petitioner is discriminated.
- 5. Details of alternative remedies available and whether exhausted:

The petitioners have no other equally efficacious adequate alternative remedy than to approach this Hon'ble High Court under Article 226 and 227 of the Constitution of India, 1950.

6. Delay, if any, in filing the petition and explanation therefore:

There is no delay in filing this writ petition, as such issue is in W.P.(C) No 4684/2018 pending before this Hon'ble Court, where it was expected for early disposal, but inadvertently it is delayed, so this petitioner prefers this writ petition.

- 7. Synopsis and list of dates and events is attached separately
- .8. Relief prayed for:

PRAYER

In the above facts and circumstances this petitioner therefore humbly prays that: -

i) Your lordships may graciously be pleased to issue notices, call for the records and after hearing the parties, may issue a writ of mandamus or a writ in nature of mandamus or any other appropriate writ/writs/ order/orders commanding to the Opposite Party No-1 for regularization of petitioner's service (Gana Sikshyaka) in accordance with the Notifications

Chiransibi Jayasingh

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No-14467-XIII-SME-AE-06/2016/SME dated 25.07.2016 and the Notification No 25290-XIII-SME-AE-06/2016/S & ME dated 22.12.2016 issued by the Department of School and Mass Education, Govt of Odisha, i.e. without any discrimination within a time limit as your lordships deem fit and proper in the interest of justice;

#### AND

ii) May also be pleased to pass such other relief or reliefs as this Hon'ble Court deems just and proper in the facts and circumstances of the case.

And for which act of kindness this petitioner as in duty bound shall pray forever.

- 9. Interim Order/Writ, if prayed for: Not required presently
- 10. Documents relied on:

The annexed documents are true photocopies of their respective originals; the original documents are available with the Opposite Parties.

11. Caveat:

That no notice of lodging a caveat by the opposite party is received.

12. Other Particulars:

Affidavit in support of the application, Certificate and undertaking filed hereunder.

By the petitioner through

Cuttack

Date

(Mr. Umaluni Sulan) A D V () C A T E Chinamitsi Joyasi orgh



### <u>AFFIDAVIT</u>

- I, Chiranjibi Jayasingh aged about 50 years S/o Pravakara Jayasingh presently as Gana Sikshyak in Govt U.P. School, Komanda (B), AT-Komanda, PO-Godipada, PS-Saranakul under Odagaon Block in the District of Nayagarh do hereby solemnly affirm and state on oath as under:
- 1. That I am the petitioner in this case:
- 2. That the averments from Para No-1 to 12 are under my instruction and legal advice.
- 3. That, the enclosed/annexed documents are photo copies of their respective originals.
- 4. That the facts stated above are all true to the best of my knowledge and belief; I have not suppressed any material facts within my due knowledge.

Identified by

(Mr. Vinskon Salas)
ADVOCATE
Cuttack

Date

**CERTIFICATE** 

Due to readily not availability of cartridge papers this matter is printed on legal size thin papers and further it is certified that the contents of the petition have been explained to the deponent-petitioner in vernacular, which he admits as true.

**ADVOCATE** 

Chiramiilion Joyalings

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the month grange in the selection of the selection shall not be treated valid.

The month grange is a material of the selection of the selecti

All concerned may be informed accordingly.

Yours faithfally A. K. MISHRA

Companyioner-com: Secrolary to Government

GOVERNMENT OF URISSA EDUCATION DEPARTMENT No. 19272-XVIIB-P-105/90-E Dated the 25th April 1892

FROM

Shri J. PADHI, O. A. S. ([), Deputy Secretary to Government

To

The Director, Secondary Education, Ochsa.

Subject - Filling up the posts of Headmasters in sided High Schools

Reference—Your Letter No. 2750-G. dated 28-9-1891 and this Department Letter No. 55002-EYS, dajet 14-12-1990.

¦Sir,

I am directed to invite a reference to the tetters noted above on the subject and to say that in view of the clear pronouncement of the Hon'ble High Court in O. J. C. No. 647/11. Minuscins Committee of Banchupandaba Sailabala High School, Dhuniso and another versus State and others, the Government order contained in the selected referred to above to the effect that the textelest conjugate national selection of the select School to which he is transferred to no longer in force and should be treated to have been withdream,

> Yours faithfully J. PAOH)

Deputy Secretary to Government

No. 33241-XU1/CD.-78/89-E.Y.S., CONTRIMENT OF ORISSY EDUCATION & XOUTH SERVICES DEPARTMENT

RESOLUTION

Bhubaneswar, dated the 29th July 1989 .

The scheme of Non-formal Education aims to utiliso persons motivated to sonce community to import education to those who would otherwise be heprived of it on account of social and economic . Suctore.

The Instructor in NFB Course is essentially a volunteer who takes up this work in addition to his/her other occupation. The daily work of running the Confre is likely to take up this work. The Instructor may if he/she has time and inclination, spend, more time in motivating the learners and in such other activities as may be considered appropriate. Over a period of time, an WEE Instructor should gim to provide primary education to all children who support after primary sometimes in the area assigned to him/her.

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The supervision charges are at the rate of Re. 400 per centre per annum. It will be convenient supervisor is put in charge of 10 centres in which case in a Block will 40 NFE Centres there will 4 supervisors each getting annually Rs. 4,000 per aunous.

#### Qualification of Instructor-

- 1. The pre-requisites for selection of an Instructor are as follows :-
  - (a) Should be local, preferably of the village whose the centre is located.
  - (b) Should have a motivation to belp the disadvantaged sections and should have given so evidence of it.
  - (c) Should be acceptable to the community.
  - (d) As for as possible belong to the weaker section of the Society.
- 2. Laying down of qualification like Matriculation or Teacher Training Certificate can exclud some very promising and suitable persons. By and large, therefore, persons who have studied up to Class X may be considered as minimum qualification and this may be relaxed up to Class Til. exceptional circumstances.
- 3. Preference abould be given to women in appointment of N. F. E. instructors and when necessary, educational qualification for women the relaxed even lower than those intended for men.
- 4. At least 50 per cent N. F. E. centres should be for Women/Girls and all such Centres should & put under the charge of female instructors.

#### Qualifications of Supervisors -

Some additional qualifications for supervisor would be as follow: :-

- (a) Ability to impartifficiality,
- (b) Good Communication skills.
- (c) Capability to organica group activities.
- (d) Capability to organish Collective action.

The Supervisors should have passed matriculation. An attitude of flexibility should be adposed in regard to qualifications for them also; Enough scope of relaxation should be available for persons when have successfally worked as Instructors for at least 2 years and for women candidates.

#### Selection of Instructors and Supervisors.

The selection procedutes laid down for Government servants, should not be applicable for selection of Instructors and Supervisors. Since there posts are not to be filled up on monthly salary, but are be personned by voluntary workers on honorarium. spousoring of name through Employment Exchange of selection by District Level Selection Committees is not required. The nature of work of Institution and Supervisors is purely homorary and voluntary subject to qualifications and background referred at above. at above.

2. The Instructors should be selected with full involvement or local community particularly of white and persons belonging to the weaker sections. The effection can be made by a Committee compilate the following persons :-

#### (A) Selection Commusector Instructors:

- (1) Sarapanch of the conferred Ornina Panchayet
- (11) Jr. Co-ordinator, DiR. R. or Bis/boc representative
- (ili) Supervisor under whose jurisdiction the contro is located
- (iv) Ward Montier of the Place Village where the centre is located

  (v) Anomineo of the Village Education Committee belonging to the category S. C./S. L./Women.
- (vi) Head Pandit of the nearest Frimmry School

Chairman

Momber (Convende

Monibers:

tability with the local community should be important consideration in selection of ejection should also be made by a Committee comprising with the following.

Committee for Superalsors

Chairman, l'anchaya: Saunti

Chairman

Co ordinator or bis nothince

Mcmber (Convenor)

Momber

(10) Strapanch of the Grund Panebayat in whose suriediction Supervisor

Member

(v) A nomince of the Village Edication Committee of the Head-quarters village of the sufervisor bolding to S. C./S. T./Women.

(v) Headmaster /Headmistress of the heprest High School or M. E.

Member

School us the case may be.

The spore guidelines are pursuant of Government at India letter No. F.-25—10/S. S.-N. E. B.-11, dated the 11th April 1989 and are applicable to all Non-Formal Education Convernment of India or State Government and rea through State Government or Voluntary sunded by Government of India or State Government and rea through State Government or Voluntary. Agencies or by other Agencies. Application

The previous suidelines communicated the Converge investand seperseded. This resolution come into force with impedial ceffect and should still the dispress.

ORDER - Ordered that this Resolls fon be prolistied in the next issue of the Orisin Gozelle.

By order of the Governor (रामवास्य)

Secretary Government

### No. 43273-B: Y. S.

## . GOVERNMENT OF ORLSSA

## EDUCATION & YOUTH SERVICES DEL'AUTMENT

#### RESOLUTION

#### Dated the 24th September 1990

Summer-Appointment of Supervisors and Instructions for Non-Formal Education Programme.

In this Degartment Resolution die 122 1682 de diantité 29th July 1989, two Committees was constituted for relecting the Special Disputation of the Programme in the State. The Challeng Policie of Panchayat Samili sed Sames of the Programme in the State. The Challeng Policie Committees for selecting Supervisors and concerned Original Parchayat were also Challeng Semilis and Committees for selecting Supervisors and concerned Original Parchayats Lave been disposed, Instructors, respectively. Since, the Manchayat Semilis and Committees are being experienced to select the postulation of the Challeng of the State of

Non-Formal Editerion Pre gramme a saufenned.

2. After careful consideration and in particular to Committees as follows:—

Government have been pleased to reconstitute to the Committees as follows:—

#### (A) For Selection of Supervisors ...

(1) D. I. of Schoos

Chairman

(2) Mendmuster of the nearest Government High Selvol

Member

(3) Concerned Jr. Co-ordinator

Member

Momber-Convenor

(4) Concerand S. I. of Schools

isn of Instructors

Concerned S. I. of Schools

Concerned V. L.

Chairman Member

Concerned Headmaster of the nearest U. C. M. E. School

Member

Concerned Ir. Co-ordinator

the instructore will receive a monthly honorarium of Rs. 105 the Instructors should be belong to the vilinge where the centre is being opened. Wherever, Matribulate candidates to the same locality are available they should be considered. Wherever, Matribulate candidates for girls, the Instructors should be selected from eligible Lady candidates. The other, instructions to the other, instructions.

Ordered that, this Resolution be published in the Orisso Gazette for general information. Ordered also that, the copies of this Resolution be forwarded to all Departments life ads of Departments for information.

By order of the Govern A. K. MISHRA Secreta y to Goverageou

No. 12885-XIII-SME/AE-24/93-S. & M. E. GOVERNMENT OF ORISSA DEPARTMENT OF SCHOOL AND MASS EDUCATION

Bhubaccswar, daied the 29th April 1993

SUBIBET-State Literacy Mission Authority

It supercession of Resolution No. 26708276; Caind: the 219t May 1992 Government have been pleased to reconstitute the Council and Executive Committee of the State Liketacy Mission Authority.

(I) 1. Chief Minister	(a) connoil		,7 4-2101	: י עמונעם
2. Minister, School and Mass B	ducatión	•	Chairme	Δ.
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. Wunster, Panchyati Rai:	1	•	Maraber	·······································
5. Minister, Hurijan Welfare and	Tribal Welfure		Do:	٠٠ :
6. Dr. Krupasindhy Phol	Main National Pariles—	•	Do.	٠.
8. Dr. Mauorama Mohapatra 9. Shri Debendra D			·· Member	
. Synkidad Pari		•		
(III) Members of Legislative Assembly— 11. Shi) Birabuadra Singh. 12. Sint. Sugarantees		. <b>•</b>	.مِ الْ	
12. Sint. Sugy pai Kumari Deo 13. Shri Hemananda Biswal 14. Shri Prasanna Kumar Panda			Member Do.	
		-2/	Do.	!
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-19- 75. ANNEXURE- 2

# GOVERNMENT OF ORISSA DEPARTMENT OF SCHOOL & MASS EDUCATION BHUBANESWAR

No.3358 /SME, Dt.16.02.08

#### RESOLUTION

For the purpose of universalization of Elementary Education, Education Guarantee Scheme (EGS), an Integral part of Sarba Sikshya Abhijan (SSA), was operationalised in Orissa from the year 2001-02. Due to up-gradation of E.G.S. Centres to regular Schools and for various reasons, the Education Volunteers engaged in such E.G.S. Centres have been disengaged and would be facing disengagement in the above process.

Government after careful consideration of the problems of the Education Volunteers under the Education Guarantee Scheme, decided to rehabilitate Education Volunteers in E.G.S. Centres who have been disengaged or facing disengagement under the Education Guarantee Scheme on the following manner.

- 1. Such disengaged Education Volunteers will be rehabilitated as "Gana Sikshyaka" under Sarba Sikshya Abhijan.
- 2. Such disengaged Education Volunteers who are trained (Matric, 10<sup>th</sup> (H.S.C.)/+2 with C.T., B.A./B.Sč./ B.Com. with B.Ed.) will be engaged as Gana Sikshyaka with a consolidated remuneration of IRs.2000/- per month. Those who are untrained (Minimum qualification of Matric, 10<sup>th</sup> (H.S.C.E.)/+2) will be engaged with a consolidated remuneration of Rs.1750/- per month.
- 3. Such disengaged Education Volunteers: who are having 10<sup>th</sup> qualification (H.S.C. Examination) will have to acquire +2 qualification within a period of 3 years from their engagement as "Gana Siksnyaka" to be considered eligible for C.T. Training. Those who are having +2 minimum qualification will be allowed to complete C.T. Training on a distance mode either through IGNOU dr. from the Directorate of TE & SCERY within a period of 3 years. And after completion of C.T. Training the "Gana Sikshyaka" will be eligible to get consolidated remuneration of Rs.2000/- from the date of passing C.T. Training.



- The engagement of Gana Sikshyak will be made on basis of annual control, honorary and would be renewed by the Zilla Parishad through the Cullector-cum-Chief Executive Officer of Zilla Parishad basing on the positive certificate given by the Village Education Committee (VEC) about their attendance and performance in the school. In case of the Zilla Parishad decided not to renew the contract, appeals shall lie to the State Project Director, OPEPA.
- The Gana Sikshyak will be engaged against the existing created vacancles of Sikshya Sahayaks and their consolidated remuneration etc. will be borne out of S.S.A. budget. They, will be engaged in the Government Primary Schools.
- The Gana Sikshyak will be responsible for making enrolment drive in the particular educational institution, check drop out rate of the students, bring the out of school children to the school, assist the regular teachers in teaching work, besides other works as would be entrusted by the Headmaster of the school from time to time.
- 7. . An agreement as may be prescribed by the Govt. between the C.E.O., Zilla Parishad-cum-Collector & Ganasikshyak is to be signed on stamped paper. The State Project Director, OPEPA will furnish the draft copy of agreement to Govt. for approval.
- The Gana Sikshyak can be removed from the engagement within. the 30days prior notice, if She /he violates the conditions as stipulated in the engagement contract or considered unsultable latteron by the authorities or on the basis of the adverse report of the Village Education Committee (VEC).
- 9. The Gana Sikshyak can avail casual leave of 12 days during one calendar year. She/he shall not be entitled to any other authorised absence beyond the above mentioned period. If She/he remains absent with permission and if She/he does not have authorised leave at her /his credit, the proportionate amount from the consolidated remuneration shall be deducted.

- 10. Any lady Gana Sikshyak who is having less than two surviving children will be entitled to avail maternity leave for 3 months.
- 11. The Gana Sikshyak will continue to avail of the benefits in the process of selection for engagement of Sikshya Sahayak as extended in the Government in School & Mass Education Department Office Order No.23845/SME dt.04.12.07.
- 12. The engagement of Gana Sikshyak is Co-terminus with that of SSA Scheme, or other scheme as would be decided by Govt.
- 13. This decision will be given effect to from the date of their engagement as "Gana Sikshyaka".

By Order of Governor

Sd/- (S.C.Patriaik)

Commissioner-cum-Secretary to Govt.

Memo No.3359/SME Dt.16.02.08

Copy forwarded to the Gazette Cell in-charge, Orissa Gazette Cell, C/o Commerce Department, Orissa Secretariat, Shubaneswar with a request to publish the above Resolution in an extra ordinary issue of Orissa Gazette and supply 500 (five hundred) copies to this Department.

Sd/-R.P.Das
Addi. Secretary to Govt.

Memo No.3360/SME Dt.16.02.08

Copy forwarded to Finance Department / P&C Department for information and necessary action.

Sd/-R.P.Das
Addl. Secretary to Govt.

Memo No.3361/SME Dt.16.02.08

Copy forwarded to Panchayati Raj Department / ST & SC Development Department for Information and necessary action.

Sd/-R.P.Das

Addi. Secretary to Govt.

Memo No.3362/SME Dt.16.02.08

Copy forwarded to Director, Elementary Education / SPD, OPEPA / Director, TE & SCERT, Orissa for information and necessary action.

Sd/-R.P.Das

Addl. Secretary to Govt.

Memo No.3363/SME Dt.16.02.08

Copy forwarded to all Collectors-cum-Chief Executive Officers, Zilla Parishad for information and necessary action.

Sd/-R.P.Das

Addl. Secretary to Govt.

Memo No.3364/SME DI.16.02.08

Copy forwarded to Section – I / II/ V / VI /XII/ XIV (Legal Cell)/Computer Cell for Information and necessary action.

Sd/-R.P.Das
Addi. Secretary to Govt.

WICLIMMENTES Voulences/EGS Resolution 07 Final doc

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	, -	Office Order	78 AI	NNEXURE-3	_
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ROLL NO. . HIGH SCHOOL CERTIFICATE EXAMINATION (Regular/EX-Regular) ..... Son/<del>Daughter</del> I certify that distributes .... born ontoenavers: รสบรมสามาด of Pravakara: Jayasznens passed the High School Certificate Examination held in the month of ....APRIL 1988 ..... from unitary High school Goudaput ...... SUBJECTS OF EXAMINATION

Chinamsibi Toyosingh

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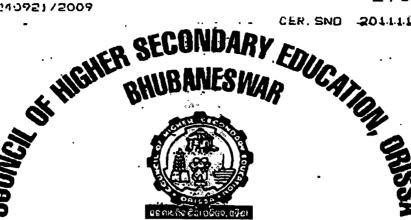
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Secretary

ROLL NO. 73'3MBOO1 REGN.NO. 240921/2009 80

SERIAL NO. 176232

CER. SND -20111166153-



#### HIGHER SECONDARY EXAMINATION CERTIFICATE

'I Certify that CHIRANJIBI JAYASINGH

Son/Daughter of Smt. PADMABATI JAYASINGH

PRAVAKAR JAYASINGH Æ Sri

## A PRIVATE CANDIDATE ...

Ran passed the Higher Secondary Examination in

Richt in the manth of MARC 2011 and is placed in the

THIRD Division

#### SUBJECTS OF EXAMINATION

COMPULSORY

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: HISTORY

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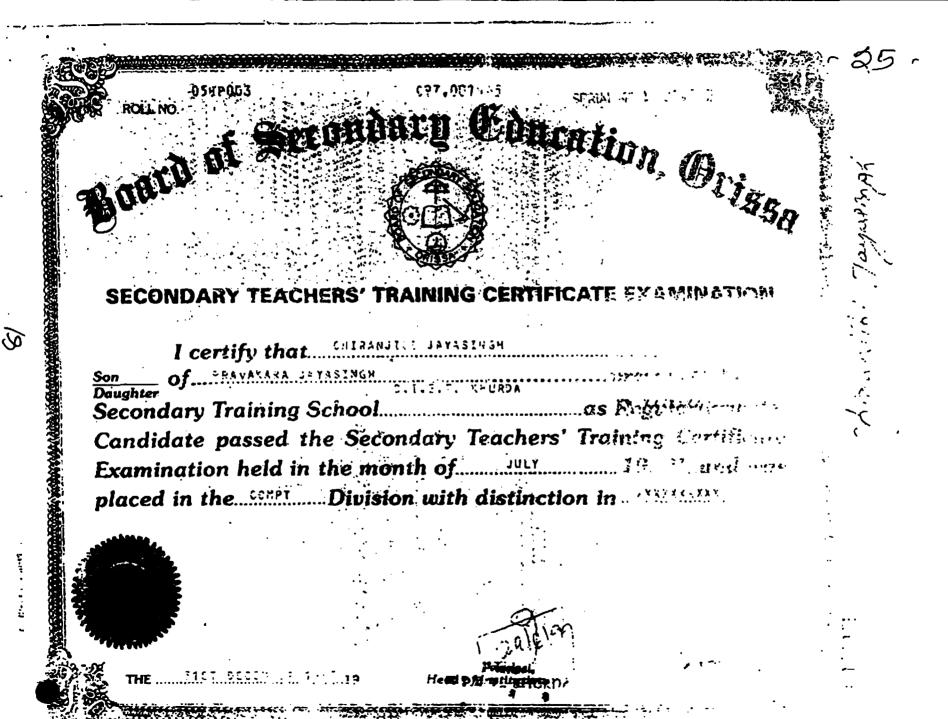


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## EXTRAORDINARY PUBLISHED BY AUTHORITY

No. 1369, CUTTACK, WEDNESDAY, AUGUST 3, 2016/ SRAVAN 12, 1938

[No. 14467-XIII-SME-AE-06/2016/SME.]

#### SCHOOL & MASS EDUCATION DEPARTMENT

#### RESOLUTION

The 25th July, 2016

To examine the demands of Ganasikshyaks, a Ministerial Sub-committee was constituted under the Chairmanship of Hon'ble Minister, Finance and Public Enterprises vide order No.17420/S&ME., dated the 21st August, 2015. On the basis of recommendations of the said Ministerial Sub-Committee, Government after careful consideration have resolved the demands of Ganasikshyaks in the following manner:—

- 1. Ganasikshyaks, who have +2/ Degree qualification with either C.T. / B.Ed. and who have completed eight years of continuous and satisfactory engagement will be regularised as "Elementary Level-V teachers" in the year 2016-17 after detail modalities on regularisation are worked out by the Government in School and Mass Education Department.
- 2. On regularisation as Elementary Level-V teachers, they will be entitled to salary in the Pay Scale of Rs.5,200-20,200/- with Grade Pay of Rs.2,200/- with D.A. and other allowances as admissible from time to time.
- 3. Ganasikshyaks having no requisite academic qualification of +2/Degree and training qualification of either C.T. or B.Ed. shall not be regularised as Elementary Level-V teachers.
  - 4. Ganasikshyaks having no requisite academic and training qualification shall acquire the required academic/training qualification by 31st March. 2019 positively. No further relaxation shall be considered thereafter.
  - 5. Ganasikshyaks who will not be able to acquire the requisite academic and training qualification by 31st March, 2018 shall be disengaged on 1st April. 2018.
  - 6. The renewal of engagement of Ganasikshyaks shall be on the basis of annual contract and renewed by the Zilka-Parishad through the Collector-cum-Chief Executive Officer of Zilla Parishad basing on the performance certificate issued by the School Management Committee (SMC) about their attendance and teaching in the School, in case the Zilla Parishad decides not to renew the contract, appeal shall be lie to the State Project Director, OPEPA.

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- 7. The existing Ganasikshyaks may be continued against the existing vacancies of Sikshya Sahayaks and their consolidated remuneration etc. shall be borne out of SSA fund. They shall be engaged only in the Government Elementary Schools.
- 8. The Ganasikshyaks shall be responsible for making enrolment drive in the particular educational institution, check dropout rate of students, bring the out of School children to the School and assist the regular teachers in teaching work besides other works as would be entrusted by the Headmaster of the School and Senior Officers from School & Mass Education Department from time to time. Their continuance depend on their performance indicators.
- 9. An agreement between the C.E.O., Zilla Parishad-cum-Collector and Ganasikshyaks shall be signed on the prescribed stamped paper.
- 10. The Ganasikshyaks shall be removed from the engagement after 30 days of prior notice, if she/he violates the conditions as stipulated in the engagement contract or considered unsuitable by the authorities or on the basis of the adverse report of School Management Committee (SMC) or she/he is proceeded in criminal cases. In exceptional crimes like sexual harassment to the students, they would be dismissed with Immediate effect.
- 11. The Ganasikshyaks may avail casual leave of 12 days during one calendar year. She/he shall not be entitled to any other authorised absence beyond the above mentioned period. If she/he remains absent with permission and if she/he does not have authorised leave at her/his credit, the proportionate amount from the consolidated remuneration shall be deducted.
- 12. Unauthorised absence for a continuous period of 15 days or more shall automatically terminate his/her engagement. Any unauthorised absence shall be considered under 'no work no pay' principle, which may lead discontinuance of engagement.
- 13. Lady Ganasikshyak who is having less than two surviving children, may be entitled to avail maternity leave; as decided by Government, from time to time.
- 14. The continuance of existing Ganasiks riyaks is co-terminus with that of SSA Scheme.
- 15. This has been concurred in by Finance Department vide UOR No.51-SS-I dated the 21st April, 2016.

By Order of the Governor

RANJANA CHOPRA

Commissioner-cum-Secretary to Government

-28-89

ANNEXURE- L SOVERNMENT OF ODISHA DEPARTMENT OF SCHOOL AND MASS EDUCATION

No. 14302 /SME, Bhubaneswar, dated the 46-42

Sub: Guidelines for conducting Teacher Eligibility Test (TET).

The National Council of Teacher Education being the Academic Authority has laid down the minimum qualifications for a person to be eligible for appointment as Teacher in Classes I to VIII vide Notification dt.23.08.2010 and Notification Dt.29.07.2011. As per the said notifications one of the essential qualifications for a person to be eligible for appointment as a teacher in any of the schools referred to clause (n) of section-2 of the RTE Act is that he/she should pass the Teacher Eligibility Test (TET) which will be conducted by the appropriate Government in accordance with the guidelines issued by the NCTE. Accordingly, the State Govt. have framed the following guidelines for conducting TET in the State:-

- 1. The Teacher Eligibility Test shall be called "Odisha Teacher Eligibility Test" (OTET). OTET shall be conducted orice in a year or as decided by Government according to need.
- The Board of Secondary Education has been designated as the professional body for conducting OTET vide Notification No.8635/SME Dtd.02.04.2012. Detailed procedure for conducting OTET and instructions for carrying out the examination shall be issued by the BSE, Odisha. The application form for OTET shall also be prescribed by the Board of Secondary Education, Odisha.

#### 3. Applicability

OTET is applicable to all candidates who possess requisite academic and training qualifications with requisite percentage of marks and to all candidates pursuing the final year of the teacher training courses before the date of publication of advertisement for conducting OTET who aspire to become teachers for Classes-I to VIII in the schools of the State Govt., private aided schools and private unaided schools in the State of Odisha. However, the candidates intending to seek employment as teachers in private un-aided schools shall also have the option of appearing at Central Teacher Eligibility Test(CTET) conducted by Central Govt. through CBSE, if they so desire. The candidates after being qualified in OTET can also apply for further Improvement.

#### 4. Eligibility

- (i) Persons having the following minimum qualifications shall be eligible for appearing in OTET.
  - (a) Category-A

Higher Secondary (+2 or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (CT).

OR

Higher Secondary (+2 or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

OR

Graduation and 2- year Diploma in Elementary Education/ 2- year Diploma in Special Education.

#### (b) Category-B

Graduation with at least 50% marks and 1- year Bachelor in Education (B. Ed.).

OR

Graduation with 50% marks and 1- year B.Ed.(Special Education)

OR

Higher Secondary (+2 or its equivalent) with at least 50% marks and 4 - year B.A. Ed./ B.Sc.Ed.

Provided that relaxation of 5% in minimum qualifying marks in +2 or graduation level, as the case may be, shall be allowed to the candidates belonging to SC, ST, OBC / SEBC category.

Provided further that candidates having minimum marks in +2 or graduation level, as the case may be, prescribed at the time of admission in teacher education courses shall also eligible to appear in OTET.

- (ii) Persons who are pursuing (final year) any of the teacher education courses (recognized by the NCTE or by the RCI, as the case may be) specified above in both the categories.
- (iii) Persons declared eligible by the State Govt. / NCTE/ Govt. of India from time to time.

#### 5. Examination Paper

- (i) There shall be two papers of the OTET viz -Paper-I and Paper-II.

  Persons having qualification or pursuing (final year) any of the Diploma in Education Courses have to appear in only Paper-I of the Examination.

  Persons having qualification or pursuing (final year) any of the Degree in Education Courses have to appear in only Paper-II of the Examination.

  Eligibility for appearing in examination papers for persons covered under Para-4(iii) will be notified by the Govt. after declaration of their eligibility.
- (ii) The duration of the test in each paper shall be 1 1/2 hours.
- (iii) All questions will be Multiple Choice Question (MCQ), each carrying one mark with four alternatives out of which one answer is correct.
- (iv) The question papers in non-language subjects shall be bi-lingual i.e.in Odla and English.
- (v) Following languages shall be offered in Language -1: Odia, Hindi, Telugu, Urdu, Bengali.
   The candidate has to choose any one of these languages for Language-I subject.
- (vi) Language -II subject shall be English for all candidates.
- (vii) There shall be no negative marking.

#### 6. Qualifying marks of OTET Examination

The minimum pass mark in each paper is 60%. A person securing 60% or more in a paper shall be considered OTET pass. In case of SC,ST,PH, OBC/SEBC candidates, the minimum pass mark shall be 50%.

87-31-

#### 7. Issue of Certificate

Successful candidates shall be awarded an OTET Certificate by BSE(O). The Certificate shall contain the name and address of the candidate, date of birth, registration number, year/month of award of certificate & marks obtained in paper(s). The certificate shall be electronically generated with adequate security features.

#### 8. Validity of OTET Certificate

The validity period of OTET qualifying certificate /mark sheet shall be for a minimum period of 7 years from the date of OTET examination subject to fulfillment of all other eligibility conditions of appointment as may be imposed by the appointing authority from time to time.

- 9. There shall be no restriction on the number of attempts a person can take for acquiring a OTET Certificate. A person who has qualified OTET may also appear again for improving his/her score.
- 10. The weightage of OTET scores in the recruitment process shall be as decided by Government from time to time.
- 11. Qualifying the OTET would not confer a right on any person for recruitment/employment as it is only one of the eligibility criteria for appointment. The eligibility shall finally be verified by the concerned recruiting agency/appointing authority.

#### 12. Conduct of OTET Examination

The examination shall be conducted by Board of Secondary Education, Odisha. Detailed guidelines for conduct of examination including selection of Centers of Examination, format of Application Forms, fee structure, valuation of answer sheets, declaration of results, issue of mark sheets and certificate etc. shall be framed by the Board of Secondary Education, Odisha.

88. -32 -

All disputes pertaining to the conduct of OTET Examination shall be subject to jurisdiction of BSE (O).

- 13. The detailed syllabus for both the papers of OTET shall be prepared by the Directorate of T.E & SCERT, Odisha strictly in conformity with the structure and content prescribed by the NCTE in this regard. The syllabus shall be made available on the official website of TE & SCERT, BSE (O) and S&ME, Department.
- 14. The BSE, Odisha shall accept the syllabus prepared by the T.E & SCERT. The nature and the standard of the questions of OTET shall be as per the guidelines issued by the NCTE in this regard.
- 15. The Director, TE & SCERT shall be the Nodal Officer for the purpose of OTET.

Ordered that this Resolution will be published in an extraordinary issue of Orissa Gazette.

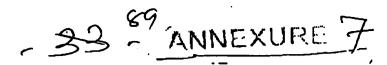
By Order of the Governor,

Principal Secretary to Govt.

Memo No. 14303 /SME, Date. 4-6-12

Copy forwarded to the Gazette Cell In-charge, Orissa Gazette Cell, C/O Commerce Department, Orissa Secretariat, Bhubaneswar with a request to publish the above Resolution in an extra ordinary issue of Orissa Gazette and supply 500 (five hundred) copies to this Department.

Addl. Secretary to Govt.





## EXTRAORDINARY PUBLISHED BY AUTHORITY

No. 2391, CUTTACK, SATURDAY, DECEMBER 24, 2016/PAUSA 3, 1938

#### SCHOOL & MASS EDUCATION DEPARTMENT

NOTIFICATION

The 22nd December, 2016

Sub: Modalities for regularization of Gana Sikshyaks.

No.25290-XIII-SME-AE-06/2016/S&ME.— After careful consideration of the recommendations of the Ministerial Sub-Committee constituted vice Order No. 17420/SME., dated the 21st August, 2015 under the Chairmanship of Florible Minister. Finance, Public Enterprises and H & F W, Government have been pleased to formulate the following modalities for regularisation of Gana Sikshyaks pursuant to Resolution No.14467/SME., dated the 25th July, 2016.

- 1. The Gana Sikshyaks who have completed 8 years of regular and continuous engagement and have possessed educational and training qualification as mentioned at Para. (2) below will be regularized as Level-V Assistant Teacher (ex-cadre) equivalent to Level-V teacher of Elementary cadre.
- 2. For regularization as Level-V Assistant Teacher (ex-cadre), a Gana Sikshyak must be possessing educational and training qualification as given below:---
  - (a) (i) Higher Secondary (+2 or its equivalent) and 2 year Diploma in Elementary Education (C.T.) or Higher Secondary (+2 or its equivalent) and 2 year Diploma in Education (Special Education); or Graduate in Arts/ Science and 2 year Diploma in Elementary Education or Graduate in Arts/ Science and 2 year Diploma in Education (Special Education); and must have Odia as M.I.L. up to Class-VII or pass in Odia (anguage test equivalent to M.E. standard conducted, or declared equivalent, by BSE (Odisha); or
    - (ii) Graduation in Arts/ Science and 1 year Bachelor in Education (B.Ed.) or Graduation in Arts/ Science and 1 year B. Ed. (Special Education); or Higher Secondary (+2 or its equivalent) and 4 years Bachelor in

-34-

Elementary Education or Higher Secondary (+2 or its equivalent) and 4 years B.A./B.Sc. Ed. or B.A. Ed./ B.Sc. Ed., and must have Odia as M.t.L. up to Class-X or pass in Odia language test equivalent to Xth standard

conducted, or declared equivalent, by BSE (Odisha).

(b) Such Gana Sikshyak is required to pass OTET within 31st March, 2019 if he has not passed OTET earlier. If she, he does not pass the OTET by such date, she / he will not be eligible to get any further increment after 31st March, 2019.

#### Explanation:-

- (i) For the purpose of equivalency of Higher Secondary (+2), examinations conducted by the institutions declared equivalent by the Council of Higher Secondary Education; Odisha shall be considered.
- (ii) For the purpose of equivalency of 2 years Diploma in Elementary Education, examinations conducted by the institutions declared equivalent by the Board of Secondary Education, Odisha shall be considered.
- (iii) For the purpose of 2 years Diploma in Education (Special Education) / one year B.Ed. (Special Education), a course recognized by the Rehabilitation Council of India (RCI) shall be considered.
- (iv) For the purpose of Degree in Teacher Education (B.Ed.), B.Ed. Degree of other Universities declared equivalent with corresponding degree of the Universities of Odisha and a course recognized by the NCTE shall be considered.
- 3. He / She must not have received any adverse remark from Competent Authority during the period of his / her engagement as Gana Sikshyak and the School Managing Committee (SMC) must have given a good Certificate about regular attendance and satisfactory teaching.
- 4. The regularization of Gana Sikshyakas in each District will be made on the basis of selection by a committee comprising of the following officers of the concerned District.

(1) Collector-cum-Chief Executive Officer,
Zilla Parishad of the District.

Chairman

(2) Dist. Project Co-ordinator, Sarva Sikshya Abhiyan of the District. Member

(3) Dist. Education Officer

Member-Convener

(4) Dist. Welfare Officer

- Member

(5) Block Education Officer of the Concerned Block.

- Member
- 5. The Selection Committee shall verify all original certificates and mark sheets of their educational qualification and training qualification, Residential Certificate, Caste Certificate (in case of S.C., S.T. & SEBC) and Disability Certificate (in case of Person with Disability Gana Sikshyaks) prior to regularization of the services of eligible Gana Sikshyakas. If the Certificates, Mark Sheets & other documents so produced by the Gana Sikshyak at the time of verification is/are found not genuine, necessary action may be taken to dis-engage the Gana Sikshyak followed by initiation of criminal proceedings against him/ her.
- 6. The Selection Committee shall also verify whether prior permission has been obtained by the Gana Sikshyak concerned for acquiring higher qualification/training qualification, while in service, either as a Collegiate or Non-collegiate candidate. If a Gana Sikshyak has acquired such qualification as a Collegiate candidate, due verification may be made whether he / she had availed leave for the purpose from the Competent Authority and such leave shall not be taken into consideration for computing 8 (eight) years of service.
- 7. Gana Sikshyak, against whom any criminal case is pending finalization, shall not be eligible to be regularized.
- 8. He / She shall produce a Medical Certificate issued by a physician not below the rank of an Asst. Surgeon certifying his/her fitness to perform duty prior to his/her regularization.
- 9. An undertaking, having not more than one spouse living, must be kept from each Gana Sikshyak prior to his / her regularization, unless it is required under any custom or personal law.

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- 10. The seniority list shall be prepared by the Selection Committee of the district taking in to consideration the year of acquiring of training qualification by the Gana Sikshyak with due regard to his / her date of joining in the concerned District. If the date of joining will be same in the case of more than one such Gana Sikshyaks, then their seniority will be maintained according to the seniority of their date of birth.
- 11. The Odisha Reservation of Vacancies (in posts and services for ST & SC) Act, 1975 along with the rules made thereunder and OCS (Reservation of Vacancies for Women in Public Services) Rules, 1994 and such other principles of reservation as prescribed by the State Government, from time to time, shall be followed at the time of regularization of Gana Sikshyaks as Level-V Assistant Teachers (ex-cadre).
- 12. The Gana Sikshyaks so regularized will be placed under the scheme of Sarva Sikshya Abhlyan on deputation basis and the essential deductions for relevant pensionary benefits (employer's share) shall be borne by the State Government.

By Order of the Governor

RANJANA CHOPRA

Commissioner-cum-Secretary to Government

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From: KHANEDA

From: Hub To: Hub

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The District Education Officer. Nayagarh

Sub: Regularization of my service in accordance with the Govi Notification No 25290-XIII-SME-AE-06/2016/S&ME dated 22.12.2016

Sir.

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Respectfully and humbly I, a Gana Sikshyak being appointed in pursuance of Govt Order No 3368/SME, Dtd. 18.02.2008 and Letter No 2440/Estt/08, Dtd 20.03.2008 of SPD, OPEPA Bhubaneswar, presently working at Govf. O.P. School, beg to state that I have requisite qualifications to be an Assistant Teacher in accordance with the Govt No 25290-XIII-SME-AE-06/2016/S&ME 22.12.2016, therefore I am entitled for regularization as Level-V Assistant Teacher (ex-cadre) equivalent to Level-V teacher of Elementary Cadre. Though some of Gana Sikshyaks have been regularized, but I have been discriminated without any valid reason.

I, therefore humbly pray that my service may kindly be regularized in accordance with the above Govt Notification and for which act of kindness I shall be obliged.

ANT Badspades Date. 18.07.2022

Yours faithfully, GOVI U.P.S. Komanda! Under BE. U. O dagaen Box

Copy submitted to the Principal Secretary to Govt, School & Mass Education Department, Lokseva Bhawan/ the Director of Elementary Education, Odisha Phubaneswar and the Collector & Dist. Magistrate, Navagarh for kind information with prayer for regularization of my service.

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District Education Officer Navagarh.

### IN THE HIGH COURT OF ORISSA : CUTTACK

#### W.P. (C) No. 19190 of 2022

Chiranjibi Jayasingh

.... Petitioner

Vrs.

State of Odisha and others ...

Opp. Parties

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	Collector, Nayagarh in Misc. Case		
l.	No.01 of 2018		
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	Collector, Nayagarh in Misc. Case	ļ '	
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	21.05.2018		

Cuttack

Date 201.10.2028\_\_

Standing Counsel, S &ME Cell, Cuttack

> District Education Officer Nayagarh.

# IN THE HIGH COURT OF ORISSA; CUTTACK W.P. (C) No. 19190 of 2022

Chiranjibi Jayasingh

. Petitioner

Vrs.

State of Odisha and others ...

Opp. Parties

#### COUNTER FILED BY THE OPPOSITE PARTY NO.4 (DISTRICT EDUCATION OFFICER, NAYAGARH)

I, Sri Akrura Barik, aged about 54 years, Son of Late Raghunath Barik, at present working as District Education Officer, Nayagarh, At/P.O/Dist. Nayagarh, do hereby solemnly affirm and state as follows;

- 1. That, I am the Opp. Party No.4 in this case. I have gone through the averments made in the writ petition and understood the contents made therein.
- 2. That, the petitioner worked as Gana Shikhyak duly appointed by the DPC, SSA, Nayagarh under Sarba Sikhya Abhiyan Scheme and imparting their services in different primary schools under Nayagarh District.
- 3. That, the petitioner was C.T. trained Gana Shikhyaka and have filed this writ petition due to non-consideration of his cases for appointment to Level-V Asst Teacher(ex-cadre) pursuing Govt. Notification No. 25290 dated 22.12.2016 which is annexed as Annexure-7 of the writ petition.

Surendra Prasad Dhai Advocate NOTARY, CUTTACK Akres Brown in the 31

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- 4. That, it is humbly submitted that, pursuing Govt. letter No. 25290/SME dated 22.12.2016 and letter No. 357 dated 05.01.2017, No. 9427 dated 27.05.2017 and D.O. No. 21/DEE dated 27.07.2017 of Director, Elementary Education, a list of 487 trained Gana Shikhyakas who were found eligible for appointment as Level-V Asst. Teacher was sent to the Directorate vide letter No. 4656 dated 10.08.2017 for favour of necessary action. Besides a copy of the proceedings of the selection committee meeting held on 06.07.2017 and 05.08.2017 under the chairmanship of Collector-cum-Chairman, District Selection Committee was also sent to the Directorate.
- 5. That, prior to approval of the selected Gana Shikhyakas as Level-V Asst. Teacher, the SPD, OPEPA vide his letter No. 6636 dated 24.08.2017 directed the DPC, Nayagarh for publication of the list and Biodatas in his office Notice Board and invite objection if any from the stake holders if something wrong noticed by them after proper scrutiny.
- 6. That, after proper scrutiny of the list of eligible Gana Shikhyakas, a verified list of trained GS was prepared again. Govt. in S & ME Deptt. conveyed the creation of 563 nos of Level-V Asst. Teachers in

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respect of Nayagarh District vide his letter No. 17864/SME dated 18.09.2017.

7. That, before issue of appointment order on the demands of the Gana Shikhyaka Mahasangha, Govt. issued a clarification letter relating to validity of permission given to them by Departmental Officials for prosecuting higher qualification vide Letter No. 17960/SME dated 20.09.2017 and 18240/SME dated 23.09.2017.

In the above two letters, it is clarified by Govt. that,

- a. The Gana Shikhyakas who have acquired higher qualification as non-collegiate candidate by obtaining permission from Competent Authority i.e. Collector or DPC can only be considered for regularization.
- b. The clarification given at point No. 3 of the Department Letter No. 17960 dated 20.09.2017 is hereby explained further. SPD, OSEPA issued a circular on 07.04.2010 intimating that Collector is the competent authority to issue permission to Gana Shikhykas for obtaining higher qualification. From 16.02.2008 to 07.04.2010, there was no instruction issued on competent authority to issue permission for obtaining higher qualification. In view of the above it is considered to allow the permission issued by others

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like C.I. of schools, D.I. of Schools, BDOs, S.I. of Schools, BRCCs and HMs during 16.02.2008 to 07.04.2010. After 07.04.2010, permission from the competent authority only be considered.

8. That, One Sri Balabhadra Majhi, Gana Shikhyaka of this district filed a Case before Court of the Collector, Nayagarh Vide Misc Case No. 01/2018 with a prayer to regularize his service as Level-V Asst Tr(ex-cadre), in which the Collector & D.M. Nayagarh vide order dated 01.01.2018, was passed order as below:-

"District Education Officer, Nayagarh is instructed not to take any decision on regularization of Gana Sikhyaka until further orders."

It is submitted, ultimately the said Misc. Case No.01 of 2018 has been disposed of by the Collector, Nayagarh on 20.04.2018 holding that there is no justification by the District Education Officer not to including the name of the Petitioner to regularize his service, but after such final order has been passed by the Collector, Nayagarh dated 20.04.2018, this Hon'ble Court while entertaining a P.I.L. filed by Odisha Vikash Parishad, Bhubaneswar bearing No.4684 of 2018 that till the next date of listing, the Opp. Parties shall not regularize any Gana Sikshyak as Level-V Assistant Teacher as per the Notification dated

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Surendra Prasad Dhall
Advocate
NOTARY, CUTTACK

22.12.2016 who does not possess OTET qualification and basing on such order passed by this Hon'ble Court in the aforesaid Writ Petition, the State Government in its letter dated 21.05.2018 directed the authorities not to regularize in Gana Sikshyak as Level-V Assistant Teacher who does not possess OTET qualification. For better appreciation, the copy of the order dated 01.01.2018 passed by the Collector, Nayagarh in Misc. Case No.01 of 2018, copy of the order dated 20.04.2018 of the Collector, Nayagarh passed on Misc Case No. 01 of 2018, copy of the order dated 24.04.2018 passed in W.P.(C) No.4684 of 2018 and the consequential government letter dated 21.05.2018 are annexed herewith as Annexure-A/4, B/4, C/4 & D/4 respectively.

9. That it is respectfully submitted that after the enactment of the Right of Children to Free and Compulsory Education Act, 2009 as well as the Odisha Right of Children to Free and Compulsory Education Rules, 2010 came into force whereby for appointment of a teacher in elementary cadre minimum qualification has been prescribed by the Academic Authority where passing of Teachers Eligibility Test (TET) is mandatory for appointment of a teacher and accordingly in pursuant to the aforesaid provision, the Board of Secondary Education, Odisha is conducting such eligibility test is called as Odisha Teachers

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Advocate
NOTARY, CUTTACK

Eligibility Test and for appointment of a teacher, a candidate must have acquired the requisite training qualification along with the OTET qualification, but in the instant case, though the Petitioner claimed to be observed as Regular Primary School Teacher in terms of government notification dated 22.12.2016, but he does not possess the OTET qualification till date. Therefore, he is not entitled to be regularize as Primary School Teacher due to want of OTET qualification. It is further submitted that as per Rule 16(5) of the RTE Rule, 2010 which is specifically provided that no appointment of teacher for any school can be made in respect of any person not possessing the minimum qualification as prescribed by the academic authority notified under sub-Section (1) of Section 23 of the Act, 2009. Therefore since the Petitioner does not have the requisite qualification to be appointed as Assistant Teacher for which he cannot take the benefit in terms of the government notification dated 22.12.2016 under Annexure-7 to the Writ Petition. Hence, the prayer made in the Writ Petition for regularization, the Petitioner has Level-V Assistant Teacher is not at all tenable in the eye of law due to non-acquisition of the required OTET qualification.

10. That it is respectfully submitted that law is well settled in series of judicial pronouncement that once a person does not have the requisite qualification, he

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cannot entitled to claim such post in any manner and in the instant case, since the Petitioner claiming a regularization and without having OTET qualification is not entitled to get the said benefit, for which the Writ Petition is thoroughly mis-conceive and the same is liable to be dismissed being devoid of merit.

- 11. That it is also a fact that this Hon'ble Court in W.P.(C) No.4684 of 2018 passed order not to regularize the service of Gana Sikshyak as Assistant Teacher who does not possess OTET qualification but the said Writ Application is ultimately dismissed as withdrawn, but after dismissal of the said Writ Petition, there is no instruction from the State Government to regularize the claim of the Gana Sikshyak who does not possess the qualification. Therefore, the prayer of the Petition is devoid of merit and the same is liable to be dismissed.
- 12. That the averments which are not specifically denied are deemed to be denied and this Deponent reserves his right to file any additional affidavit if necessary in future.
- 13. That, the facts stated above are all true to the best of my knowledge and based on official records.

Identified by

Dinabandhu enchoqueta

ASO, A.G Office.

The above named Deponent

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### Certificate

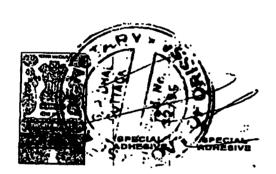
Due to non-availability of cartridge papers this affidavit has been typed in white thick papers.

Place: CUTTACLE

Date: 39 .10.2022

Standing Counsel

School and Mass Education Cell



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COURT OF THE COLLECTOR, NAYAGARH

paract of order dt. 01.01.2018 passed by the Collector, Nayagarh

in Misc case No. 01/2018

- Chiranjibi Jayasingh, S/o- Pravakar Jayasingh,
   Vill- Komanda, P.O.- Godipada, P.S.- Sarankul,
   Dist-Nayasarh
- 2. Balabhadra Majhi, S/o- Late Achutananda Majhi, Vill/P.O.- Bhaliadihi, P.S.- Sarankul,
- Dist-Nayagarh
- 3. Dushmanta Kumar Pattanaik, 8/o- Benudhar Pattanaik, Vill/P.O.- Machhipada, P.S./Dist-Nayagarh
- 4. Banshidhara Matagajasingh, S/o- Banambar Mallik Vill- Anandapur, P.O- Chakradhara Prasad, P.S.- Pategath, Dist- Nayagarh
- 5. Krushna Chandra Dalabehera, S/o- Bhajaman Dalabehera,

VIII- Nuspalii, P.O. Bhagabangur,

P.S.- Pategarh, Dist-Nayagarh

.....Petitioners

-Vrs

District Education Officer, Nayagarh
At/P.O/P.S.- Dist- Nayagarh

...... Opposite party

Order dt. 01.01.2018

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District Education Officer, Navagarh is instructed not to take any decision on regularization of Gana Bikhyaka until further orders.

Typed to my dictation & Corrected by me

Sd/-Collector & D. M., Nayagarh

Sd/Collector & D. M., Nayagarh

Memo No. O Court Dt 01 01 2018
Copy forwarded to Block Education Officer, Navagarh for

information and necessary action.

DISTRICT EDUCATION OFFICE
ALL SO
DATE 05-01-13/8

Collector & D. Mar Newspirth

: rication Officer

Extract of order dt. 20.04.2018 passed by the Collector, Navagarit
in Misc case No. 01/2018

1. Chimilbi Jayazingh, S/o- Pravakar Jayasingh, Vill- Komanda, P.O.- Godipada, P.S.- Sarankul, Dist- Nayagath

2. Balabhadra Majhi, S/o-Late Achutananda Majhi, Vill/P.O.-Bhaliadihi, P.S.-Barankul, Dist-Nayazarh

3. Dushmanta Kumar Pattanaik, S/o- Benudhar Pattanaik, Vill/P.O.- Machhipada, P.S./Dist- Nayagarh

4. Banshidhara Matagajasingh, S/o- Banambar Maliik Vill- Anandapur, P.O- Chakradhara Prasad, P.S.- Pategarh, Dist- Nayagarh

5. Krushna Chandra Dalabehera, S/o- Bhajaman Dalabehera, Vill- Nuapalli, P.O- Bhagabanpur,

P.S. Pategarh, Dist-Nayagarh

... Petitioners

District Education Offices, Navagarh.

AVP.Q/P.S.- Dist-Navagarh.

-Vxs-

.... Opposite party

### DOrder dt. 20.04.2018

This case is put up today. The petitioners installing its present thistugh their advocate. O.P. is present. The prayer of the petitioners installing its individual to O.P. to regularize their name as Level V Asst. Teacher (ex cache) as per the petition of the Cavt. in School & Mass Education Deptt. Odishs communicated vide notification in 2520 dt. 22.12.16. The advocate for the petitioner stated that though the petitioners are alighble to be regularized as level V Asst. Teacher, the D.B.O. Nayagarit has arbitrarily accutinize the selection list without the approval of the Dist. level committees and deleted 21 randidates out of approved selection list of the Dist. level committees and deleted 21 randidates out of approved selection list of the Dist. level committees where in the name of these petitioners have been found place. Further he stated that the Deputy Director. Planning office of the Directorate Elementary Education Odisha has requested vide order No. 14719 dt. 24.8.17 communicated vide Memo No. 14721 dt. 24.8.17 to display the list of eligible Gana Eikelyaks who have fulfilled all eligibility criteria in respect of their district in their notice board by 24.8.17 positively. Accordingly 487 nos. of G.S. of this district are eligible for regularization. The D.B.O. has misinterpreted the intention of the letter and arbitrarily deleted the name of the petitioners which needs cancellation and testification.

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No. of the

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On the other hand the D.R.O., Nayagarh has furnished the P.W.C., and admitted the first of approved 487 trained G.S. who are found eligible for appointment of level V Assistances. Prior to approval of the selected G.S. the SPD OPEPA vide his letter No. 6636 dt. 24.8.17 has directed the D.P.C., Nayagarh for publication of the list & Biodatas in office notice Board and invite objection if any from the stake holder if something wrong noticed by them after proper scrutiny. Accordingly scrutiny was made and 21 ineligible candidates were found. It is also not a fact that the petitioners have submitted permission letter from the competent authority at the time of scrutiny. Out of the 5 applicants 2 applicants have submitted their permission letter for which their case will be considered in the next selection committee meeting.

Again the D.R.O., Nayagarh vide her letter No. 1978 dt. 6.4.15 has specified that all the 5 petitionens have furnished their permission letters for which the name of all petitionens were placed before the selection committee held on 16.3.18 and it was decided to regularize the case of the petitionens after vacant of stay order.

In view of the facts & circumstance prestioned above I do not find any justification in the act of the D.H.O. not to include the number of the petitionens to regularize their services.

The D.E.O., Nayaganith instructed stay the further to regularize the case of the petitloners. The entire proqual should be progulated by 15.5.2018 and compliance be reported. The other debarred candidates of similar instrumental by considered along with these petitioners.

The stay order imposed in this case is hereby vacated for all purposes.

Pronounced the order in the open court today Le. on 20.04.2018.

Typed to my dictation & Corrected by me

Sd/-Collèctor & D. M., Nayagarh Sd/-Collector & D. M., Nayagazh

Memo No. 33 /Court. Dt. 20.4.18
Copy forwarded to District Education Officer, Margarity for information and necessary action.

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ORDER WITH BIONATURE  Etale of Orina	Office note as to schon (if any), taken on Circles
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dated 22.12.2018 which is for re- Sicalysia.  The submission of leasted coun- that the robbinist qualification for any Assistant Teached is that helph should Teachers English Test (OTES). By noticested intel 22.12.2018 it has be 2(b): that the Game Blackysia would they to not hap the OTES qualification time up to 17.02.2010 in acquire such a provided that in qualific Game Blacky OTES by 31.03.2018 highly will not go	et for the patitioner is continued a Level-V fillie passed Odisha regularized oven I and have been given and have been given to done not pass the Luther increment. If is a person who does
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Sri A.K. Panday, learned Stanting Counsel for the

further contended that the said clause provides that in tulure also if the Gane Sitishyaka who has been regularized does not acquire each qualification herale would continue to be an Assistant Teacher but would not get fur her increment. It is not understood as to how a person can be regularized in senice as Leval-V Assistant Teacher without even having the

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	No. Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
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Government of Odlikus Department of School & Mass Education Remish Kerkotta, OAS (8) Joint Secretary to Covernment The Director, Elementary Education, Odishe The State Project Director (OPEPA), Bhubeneswar W.P.(C) No.4684/2018 filed by Odishs Vibush Purished & Another Versus State of Odisha & others Sir I am directed to living a reference on the subject sitest above and to say that Odisha Yikash Parlahad & another have filed W.P. (C) (PIL) No. 4514/2012 before the Hon bis High Court challenging the regularization of Game Sikilyaka as Lavel-V Arab tember. The Rou ble Kigh Court in their order duties 22,04-2018 (1000) declared) in Misc. Case No.4020/2018 arbing put of afterpold with petilifer have directed that appeals parties shall not rodular has the Cause Silveryales an Lovel-Y Assil Resolute indicators and possesse OTET qualification. Such Gena Sikehyake may be allowed to anything as such subject to final result of WP(C) 4684/2018. You are, therefore, requested to implement the will senter be letter and spirit. Yours falthfully DIRECTORATE OF ELEMENTARY EDUCATION, ODISHA, BHUBANESWAR Mamo No. 3C-187-2018-III-12670 11 Uater 25-5-62 Copy to All BEON All DRO, RTE, SSA/ All DEON All Collector of the State for information & necessary action. District Education Officer Nayagart.

# IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) No 19190 of 2022

Chiranjibi Jayasingh ... ... Petitioner

Versus

State of Odisha & others ... ... Opposite Parties

## INDEX

S.No	Description of documents	Annexure	Page
1	Rejoinder		1-8
2	Photo copies of the Order No 9564 dtd 02.11.1998 (appointment order as non- formal instructor) and a copy of the Appointment order No 493 dtd 17.01.2003 as Education Volunteer.	So gres	9-10

By the petitioner through

Cuttack

Date

(Ph. Umakan Saha) ADVOCATE

District Education Officer Nayagarh.

## IN THE HIGH COURT OF ORISSA: CUTTACK

## W.P. (C) No 19190 of 2022

Chiranjibi Jayasingh ... ... Petitioner

Versus

State of Odisha & others ... ... Opposite Parties

MAKANT SAHOC C.E. No. 0.354/20C Ceil: 9437319633

## Rejoinder filed by the petitioner

- I, Chiranjibi Jayasingh aged about 50 years S/o Pravakara Jayasingh, AT-Komanda, PO-Godipada, PS-Saranakul, Dist-Nayagarh do hereby solemnly affirm and stare on oath as follows:
- 1. That I am the petitioner in the above noted case.
- 2. That I have gone through the contents of the counter affidavit filed by the opposite party No-4 and under stood the same.
- 3. That in this case this petitioner has prayed for regularization his service in accordance with the notifications under Annexure-5 and 7 to the Writ Petition with effect from the date of her eligibility i.e., without any discrimination.

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- 4. That as regards in reply to the Paragraph No 1 and 2 of the counter this petitioner has admitted the same, as the fact is true.
- 5. That as regards in reply to the Para No 3 to the counter of the O.P. No-4 it is humbly submitted that it is also admitted by the petitioner. Though the noble State Government has been pleased to notify for regularization of Gana Sikshyaks under Annexure-7 and most of Gana Sikshyaks have been regularized in the District as well as in the State, but this petitioner has been deprived of discriminately. Therefore, this Writ Petition is filed praying so.
- 6. That as regards in reply to the Para No.4, 5 and 6 to the counter of the O.P. No-4, which are also fact, but it is humbly submitted that this petitioner's name was recommended for appointment as Level-V Asst. Teacher, as he has all eligibility in accordance with Annexure-7. There was a direction for inviting any objection from the stakeholders. No objection was received from any person(s) for regularization of service of the recommended Gana Sikshyakas.
- 7. That as regards in reply to the Para No 7 to the counter of the O.P. No-4 it is humbly submitted that the petitioner is one of them of eligible teachers for Level-V Asst-Teachers in the verified list of Gana Sikshyaks at Dist Level selection committee, but he has been deprived of

UMAKANT SAHOO C.E. NO-0-35400 Coll-84373184/2000

3

arbitrarily. He had obtained permission from the Dist Inspector of Schools, who was competent authority for acquiring higher qualification. He had completed C.T in the year 1997. After obtaining the permission from the competent authority he had been allowed the admission into the Higher Secondary course as a non-collegiate candidate. Therefore the point no-3 of the Department Letter No 17960 dtd 20.09.2017 is not violated.

UMAKANT SAHOO B.C.E. No. 0.0547E Cell-8437318632000

8. That as regards in reply to the Para No 8 to the counter of the O.P. No-4 it is humbly submitted that Sri B.Majhi, Gana Shikhyaaka had obtained permission for +2 Arts admission through correspondence course, eligibility as per the counter is not disputed. He was noncollegiate, a correspondence candidate under Council of Higher Secondary and taken leave during the periods of Exms in May 2011 only. He has completed C.T. in the year 1993. He was appointed as a Gana Sikshyak on 07.07.2008. According to Govt Circular 17960 dtd 20.09.2017 he had not violated the same. It is humbly submitted that Sri Majhi had submitted the permission letter obtained from the then D.I. of Schools in the Office of the DEO, but the same was misplaced in the office anyway. The Dist Selection Committee has approved his name, his name was also communicated along with the list of 487 nos of trained Gana Shikhyaks to the Directorate vide letter no 4657 dtd 10.08.2017 of the Dist

Marsonilli Tayosiagh



Office along with name of Sri Majhi. This Petitioner is also same footing like Sri Majhi.

9. That it is humbly submitted that this petitioner's name was also included in the list of trained Gana Shiksyaks at Dist Level. He was not given any opportunity, while his name was excluded for the above reason during preparation of the list for appointment of Level-V Asst. Teachers (ex-cadre). It is arbitrary act of the State.

UMAKANT SALICOL B.C.E. NO-0-354/2000 Cell-8437318633

- of the O.P. No-4 it is humbly submitted that the facts are true. In this unfortunate situation the petitioner has been deprived of to be appointed as Level V Asst. Teacher (excadre). In the meanwhile the W.P.(C) No 4684/2018 was dismissed on withdrawn by the Hon'ble High Court. Therefore, there is no bar for regularization of his service, as on similar footing Gana Sikshyaks have been appointed as Level V Asst. Teacher (excadre).
- 11. That as regards in reply to Para No 10 of the Counter it is humbly submitted that Annexure-7 is still in force, in accordance with the said gazette notification the passing of the OTET is not mandatory. There is no any notification superseding the Annexure-7, so this averment taken in para No-9, 10, and 11 is not only arbitrariness of the deponent, but also violating the Hon'ble Governor's Order by abuse of power in his control.

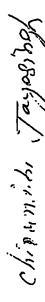
Chiranlibi Toyosingh

12. That, as regards in reply to the counter it is humbly submitted that the deponent's expression in these paras about mandatory of the OTET qualification for regularization of the petitioner's service as Level-V Asst Teacher (ex-cadre), but that is not in accordance with the Gazette Notification under Annexure-7, i.e. disobedience to the rules and laws of the Government Odisha. The Deponent, being a D.E.O. is not law abiding and peace-loving person. He ought to clarify his stand and jurisdiction about superseding the Hon'ble Governor's ORDERS (ANNEX-7). It brought to the point of law as under:

chimith Jayashar

- A) For that the deponent expressed his opinion as THE ANNEXURE-7 IS THE VIRUS OF THE ACT, the deponent will never act upon THE HON'BLE GOVERNOR'S ORDER.
- B) For that the DEPONENT supports the prayer in the W.P.(C) NO 4684/2016, WHICH IS FILED AGAINST THE GOVT; though it was a PIL, but the Hon'ble High Court has not given any specific ruling / views while dismissing the writ petition. The deponent (O.P. No-3) is not authorized to do so.
- C) For that as and when laws are made, their constitutionality, will have to be tested on their own merit. Preemptive answers should not be given on hypothetical questions.

UMAKANT SAHOO 8.C.E. No.O.354/200 Cell.043731863,200



- 13. That as regards in reply to the counter it is humbly submitted the deponent (O.P.No-4) has not clarified about their stands on the Para No-3.10 of the Writ Petition, where the law is properly discussed. Therefore, the counter is non-application of mind of the deponent.
  - That it is humbly submitted that the petitioner is working as a SIKSYAK (teacher) since 09.07.2008 and before that he was an Education Volunteer, obtained Training certificate (C.T.) in 1993, OTET came into force since the year 2012, the regular teachers working before the year 2012 have been exempted to appear the OTET test. Though the petitioner has been working as a teacher before the OTET test came into force, so he ought to be exempted accordingly. This petitioner obtained C.T qualification in 1997, even if the regular teachers/sikhyasahayak appointed before 2010, they have been exempted from the OTET test. As the petitioner was in the service with training qualification prior to the OTET coming into force (2012) and completed more than 5 years to that effect, they ought not to be discriminated for regularization. It is a fact that those have been superannuated / retired or at the vege of their retirement, compelling them to qualify in the OTET, is illegal. As the petitioner has already completed more than 19 years continuously in teaching, as per the Odisha Service Code and present ACP/RACP circular, he is eligible for getting 2nd RACP. Stagnation in service allowing very low salary by the O.Ps is not sustainable in the law, their service ought to regularized as per the ratio decided by the Hon'ble Apex Court e.g. State of Karnataka vs. Umadevi, 2006 (4) SCC 1 and State of Karnataka Vs

UMAKAN 1 SK.40:23 8.C.E. No.0.354/2006 Cell. 943/31865,2000

M.L. Keshari 200(11) OLR (SC) 982. Though the Learned Collector, Nayagarh has graciously been pleased to direct the Opposite Party No-4 for regularization of this petitioner's service, as admitted in the counter of the O.P. No-4 annexing Annexure-B/4, but the order has not been implemented discriminately and arbitrarily.

15. That, the petitioner humbly prays that he has been working as a teacher (as non-formal instructor) from dtd 02.11.1998 upto the year 2003, when he already obtained C.T. qualification. Thereafter he acted as a teacher under Education Guarantee Scheme from 17.01.2003 31.03.2008. Thereafter he was appointed as a Gana sikhyak since 09.07.2008. The regular primary school teachers and sikhyasahayak appointed before the year 2011, are being regularized without OTET. Though the petitioner is working on same footing, but he has been deprived of to get financial benefits discriminately. Annexed hereto and marked as Annexure-9 series are photo copies of the Order No 9564 dtd 02.11.1998 (appointment order as non-formal instructor) and a copy of the Appointment order No 493 dtd 17.01.2003 as Education Volunteer.

- 16. That the petitioner's prayer is lawful squarely covered to the Judgments passed in the Hon'ble High Court and Supreme Court of India.
- 17. That it is humbly submitted that in view of the above facts and circumstances the contents made in the writ petition deserve merit and the petitioner is entitled to the relief's sought for.
- 18. That it is humbly submitted that the statements in this rejoinder are all true to the best of my knowledge and belief.

Identified By

(Mr. Umakanı Sahoo) ADVOCATE Cuttack Deponent/ petitioner

Date

#### CERTIFICATE

Due to readily non-availability of cartridge papers the contents of this rejoinder is printed on legal size papers. It is further certified that the facts stated above are read over and explained to the deponent in vernacular, which he admits as true and correct.

**ADVOCATE** 

OFFICE ORDER NO.

SOLOTIE: HAYAGARH. /DATED 2-11-98 9564

on recommendation the Beleast on Committee formed in the purpose Sri/Smt. Limited for Month Son Committee formed in the purpose Sri/Smt. Committee for the purpose Sri/Smt. Commi Kamanda in monthly honogarium of Rs. 200/-(Rupees two hundred) only nth from the date he/she accepts the engagement and re t undersigned through the VEC/Supervisor(NFE) and Juntar \_nator of the Ploject.

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A. Dasqupta District Inspector of Schools Nayagarh.

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21-Dist: 5 Inspector of Schools Nayagazh

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District Education Officer Nayagarti.

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# The Gazette of India

EXTRAORDINARY.

पाप III—सण्ड 4 PART.III—Section 4

प्रांधिकार से प्रकाशित PUBLISHED BY AVTEORITY

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पई दिल्ली, नुप्रवार, अयस्त 25, 2010/पाद 3, 1932

NEW DELHI, WEDNESDAY, AUGUST 25, 2010/BHADRA 1, 1932

राष्ट्रीय अध्यक्षक शिक्षा परिचर

अधिस्यना

नई दिन्सी, 23 अगस्त, 2010

फा. सं. 61-03/2010/एनस्पेटीई (एन एंड एस).—निश्चित्क एतं अनिवार्य वाल शिक्षा अधिनियय, 2809 (2009 का 35) की धार 23 की उप-वारा (1) द्वारा प्रदेश शिक्षा के प्रयोग करते हुए और स्कूली शिक्षा और, सावरता विभाग, मानव संख्यान विकास संज्ञालय, वारत सरकार द्वारा वारी दिखंक 31 प्रावि (2016) की अधिकार में उप्योग के अनुवार में राष्ट्रीय अध्यापक शिक्षा परिवद् एतद्वारा इस अधिस्थना की विधि में तिश्चात्क और अनिवार्य वाल शिक्षा अधिनियम, 2009 की भारा 2 के खण्ड (इ) में सुदेशित स्कूलों में कथा [ क्षे VIII में अध्यापक के सूच में नियुक्ति की पात्रता केत्र निम्ततिखित न्यूनतम चौरता निर्धारित करती है :—

1. न्यूनतम योग्यता —

(i) कशा I-V

(क) न्यूनतम 50% अंकों के साथ ढज्जतर पाण्यमिक (या इसके सपकक्ष) एवं प्रारंपिक शिक्षा शास्त्र में द्विवर्षीय ढिप्लोमा (जिस नाम से भी जाना पाल् हो)

न्यूनसम् 45% अंकों के साथ उच्चवर माध्यमिक (या इसके समकश्च) एवं प्रार्टिपक शिक्षा शास्त्र में द्विवरीय हिप्लोमा (बिस नाम से भी जाना जाता हो), जो राष्ट्रीय अध्यापक शिक्षा परिषद् (मान्यता, मानक और क्रियाविधि) विनिधम, 2002 के अनुसार प्राप्त किया गया हो।

3344 GL2010

(2)

District Education Officer

Nayagarh.

THE GAZETTE OF INOLA : EXTRAORDINARY

Par III-spe 4;

य

न्यूनतम 50% अंको के साथ उच्चतर गान्यमिक (या इसके समकक्ष) एवं 4 वर्षीय प्रारंभिक शिक्षा शास्त्र स्नातक (बी.एल.एड.)

या

न्यूनतम 50% अंकों के साथ उच्चतर माध्यमिक (या इसके समकक्ष) एवं शिक्षा शास्त्र में द्विवर्धीय डिप्लोमा (विश्लेष शिक्षा)

और

- (ख) राष्ट्रीय अध्यापक थिसा परिषष् द्वारा निरुपित बार्यदेखी सिद्धान्तों के अधीन उपयुक्त सरकारों द्वारा आयोजित [अध्यापक पाञता परीक्षा (टी.इ.टी) में उत्तीर्ण]।
- (ii) <u>कवा VI-VIII</u>
- (क) कीस./ वी.एसकी और प्रारंभिक किया ग्रास्त्र में दिखींग्रे दिस्तोगा (विश्व जाम से वी जाना जाता हो)

या

न्यूनतम 50% अंकों के साथ बी.ए. / बी.एस.सी. एवं शिक्षा शास्त्र में एकंवर्षीय स्नातक (बी.एड.)

स्र

न्यूनतम 45% अंकों के साथ बी.ए./बी.एससी एवं शिक्षा शास्त्र में एकवर्षीय स्नातक (बी.एड.) जो इस सबंध में समय-समय पर जारी राष्ट्रीय अध्यापक शिक्षा परिषद् (ए:-एस प्रान्त गीर कियाविधि) विनिध्यम के अनुसार प्राप्त किया गया हो

::·

भूग भा--दल्द व I

भेमा का ग्वंपः : असावास

न्यूनतभ 50% संको के साथ उच्चतर माध्यमिक (या इसके संगकक) एवं 4 वर्षीय प्रारंभिक शिक्षा शास्त्र स्नातक (बी:एत:एड.)

रेर

न्यूनेठम 50% अंकों छे: साथ उच्चतर माध्यमिक (या इसके सबकक्ष) एवं 4 वर्षीय बी.ए./बी. एससी एड. या बी.ए.एड./बी.एससी.एड.

या

न्यूनतम 50% अंकों के साथ बी.ए. / बी.एससी एवं एकवर्षीय बी.एड. (विशेष शिक्षा)

और

- (ख) राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा निक्रपित मार्गदर्शी सिद्धान्तों के अधीन समयुक्क संस्कारों. द्वारा आद्योजितः (अध्यापक मान्नता प्रदेशिए (दीई.टी) से उत्तीप्रीयः
- 2. अध्यापक शिक्षा शास्त्र में डिस्सोबा शिक्षा पाक्ष्यक्रम इस अधिसूचना के संदर्ध में केंद्रस्त राष्ट्रीय अध्यापक शिक्षा परिषद् (राधशिप) हारा मान्यता—प्राप्त अध्यापक शिक्षा शास्त्र में डिप्लोमा / डिग्री पाठ्यक्रम भान्य होगा। शिक्षा शास्त्र में डिप्लोमा (विशेष शिक्षा) और बीएख (विशेष शिक्षा) के लिए केंद्रल भारतीय पुतर्यास परिषद (आरसीआई) हारा मान्यता—प्राप्त पाद्यक्रम मान्य होगा।
- विशेष अनिवार्य प्रशिक्षण वह व्यक्ति,
- (क) जिसके पास न्यनतम 50% अंकों के न्याण भी ए न्यी एमसी और ती एट. योग्यता है, इसा ह सं V में नियुक्ति के लिए 1 जनवरी, 2012 तक पात्र होगा, बशर्ते कि यह नियुक्ति के बाद

प्रारंभिक शिक्षा शास्त्र में राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा मान्यता—प्राप्त 6—माह का विशेष प्रशिक्षण प्राप्त कर ले ।

- (ख) जिसके पास डी. एड. (विशेष शिक्षा) या बी.एड. (विशेष शिक्षा) की योग्यता है, उसे नियुक्ति के बाद प्रारंभिक शिक्षा शास्त्र में राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा मान्यता प्राप्त 6-माह का विशेष प्रशिक्षण प्राप्त करना आवश्यक होगा ।
- 4. इस अधिसूबना की विधि से पहले नियुक्त खांच्यापक :- इस अधिसूब्रता की तिथि से पूर्व किया 1 से VIII के लिए नियुक्त निम्नलिखित श्रेणी के खांच्यापकों को उपर्युक्त पैरा (1) में निर्धारित च्यूनतम योग्यतमं हासिल करने की आवश्यकता नहीं है :--
  - (क) राष्ट्रीय अध्यापक शिक्षा परिषद् (स्कूलों में अध्यापकों की चर्ची के जिए न्यूनतम योग्यताओं का निर्मारण) विनिधेन 2001 (समित स्वाप्त घर यथा स्थाधित) के अनुसार 3 -सितस्बर 2001 अथवा समाके बाद विश्वका अध्यापका

किन्तु बी एड की योज्यता रखने वाले कक्षा । से V के अध्यापकों या बी.एड. (विशेष शिक्षा) या डी.एड. (विशेष शिक्षा) की योज्यता रखने वाले अध्यापकों को प्रारंभिक शिक्षा शास्त्र में राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा सान्यता—प्राप्त 6—साह का विशेष प्रशिक्षण प्राप्त करना होगा ।

(ख) कहा । से V के शिक्षा स्नातक (वी.एड) योग्यलाधारी आव्यापक जिसने पूर्व में राष्ट्रीय अध्यापक शिक्षा परिपद द्वारा अनुमोदित 6—माह का विशेष आव्यापम प्राव्यक्य. (विशेष बी.टी.सी.) पूरा कर लिया है।

प्रारंभिक शिक्षा शास्त्र में राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा मान्यता—प्राप्त 6—माह का विशेष प्रशिक्षण प्राप्त कर ले ।

- (ख) जिसके पास डी. एड. (विशेष शिक्षा) या बी.एड. (विशेष शिक्षा) की योग्यता है, उसे नियुक्ति के बाद प्रारंभिया शिक्षा शास्त्र में राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा मान्यता प्राप्त 6--माह का विशेष प्रशिक्षण प्राप्त करना आवश्यक होगा ।
- 4. इस अधिसूचना की तिथि से पहले नियुक्त अध्याप्तक :- इस अधिसूचना की तिथि से पूर्व कक्षा ! से VIII के लिए नियुक्त निम्नलिखित श्रेणी के अध्यापकों को उपर्युक्त पैरा (1) में निर्धारित न्यूनतम योग्यतां हासिल करने की आवश्यकता नहीं है :--
  - (क) राष्ट्रीय अध्यापक शिक्षा परिषद (स्कूलों में अध्यापकों की मर्ती के लिए न्यून्तम योग्यताओं का निर्धारण) विनियम 2001 (संग्रेस में जुने पर यथा संशोधित) के अनुसार 3 सितास्वर, 2001 अध्या समके बाद विश्वकत अध्यापक्र

किन्तु बी.एड. की योग्यता रखने वाले कहा । से V के अध्यापकों या बी.एड. (विशेष शिक्षा) या डी.एड. (विशेष शिक्षा) की योग्यता रखने वाले अध्यापकों को प्रारंभिक शिक्षा शास्त्र में राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा मान्यता—प्राप्त ६—माह का विशेष प्रशिक्षण प्राप्त करना होगा ।

(ख) कक्षा । से V के शिक्षा स्नातक (बी.एड) योग्यताधारी अध्यापक जिसने पूर्व में राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा अनुमोदित 6-माह का विशेष आधारमूत अध्यापक पाठ्यकम (विशेष बी.टी.सी.) पूरा कर लिया है ।



נו שיש- -ווויחוין

भारत का शबंदक अमाचारण

- (ग) भर्ती नियमों ये अनुसार 3 सितम्बर, 2001 से पहले नियुक्त अध्यापक।
- 5. कुछ मामलों में इस अधिसूचना की तिथि के बाद नियुक्त अध्यापक इस अधिसूचना की तिथि से पूर्व यदि सरकारों अथवा स्थानीय प्राधिकारियों अथवा विद्यालयों द्वारा विज्ञापन जारी कर अध्यापकों की नियुक्ति की प्रक्रिया आरम्भ कर थी गई है, ऐसी स्थिति में नियुक्तियों, राष्ट्रीय अध्यापक शिक्षा परिषद (स्कूलों में अध्यापकों की भर्ती के लिए न्यूनतम योग्यलाओं का निर्धारण) विनियम, 2001 (समय-राभय पर यथासंशोधित) के अनुसार की जा सकती हैं।

हसीब अहपर्, सदस्य-सचिव [विसापनगा/4/131/10-असः]

# NATIONAL COUNCIL FOR TEACHER EDUCATION NOTIFICATION

Now Delri the 23rd August 2010

- 1 Micimum Quelifications.-
- (I) Classes I-V
- (a) Senior Secondary (or its equivalent) with at least 60% marks and 2 year Diploma in Elementary Education (by whatever name torown)

OR

Senior Secondacy (or its equivalent) with at least 45% marks and 2 - year Oiploina in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B. Ed.)

OR

3344 GIT/10-2

THE GAZETTE (WINDIA : EXTRAORDINARY PART BLACE Senior Secondary (or its equivalent) with all least 50% marks, and 2 - year Diploma in Education (Special Education) AND Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose. Chasses VI-VIII B.A/B.Sc and 2 - year Diploma to Elementary Education (by whatever name known) B.A./B.Sc.with at least 50% coasts and 1 - year Bachelox in Education (B. Ed) B.A.R.Sc. with at least 45% marks and 1 - Year Bachidor in Enteration (B. Ed), in accordance with the NCTE (Recognitive Aidma and Procedure) Regulations Issued from Sonior Secondary (or its equivalent) with at least 50th marks and 4 year flactuder in Elementary Education (B. EI:60) MESSICE CARROLLINES. Senior Secondary (or its equivalent) with all least 50% marks and 4 year BA/D.Sc. Ed or BA Pd/BSc. Ed.

B.A./B.Sc., with at least 50% evertes and 1 - year B.Ed. (Special Education)

**(b)** 

(a)

- (b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines trained by the NCTE for the purpose.
- Diploma/Degree Course in Teacher Education. For the purposes of this Notification, a diploma/degree course in teacher education recognized by the National Council for Teacher Education (NCTE) only shall be considered. However, in case of Diploma in Education (Special Education) and B. Ed (Special Education), a course recognized by the Rehabilitation Council of India (RCI) only shall be considered.



Œ.	))) — <b>रु</b> ण्ड ४)	भारत क्षा सम्बद्धाः ; कामाधारण

- Training to be undergone.- A person -
- (a) with BA/B.Sc. with at least 50% marks and B. Ed qualification shall also be eligible for appointment for class I to V upto 1st January, 2012, provided he undergoes, after appointment, an NCTE recognized 6-month special programme in Elementary Education.
- (b) with D. Ed (Special Education) or B. Ed (Special Education) qualification shall undergo, after appointment, an NCYE recognized 6-month special programme in Elementary Education.
- Teacher appointed before the date of this Notification. The following categories of teachers appointed for classes I to VIII prior to date of this Notification need not acquire the minimum qualifications specified in Para (1) above,:
- A teacher appointed on or after the 3rd September, 2001 i.e. the date on which the NCTE (Determination of (a) Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (as amended from time to time) came into force, in accordance with that Regulation.

Provided that a leacher of class I to V possessing B. Ed qualification, or a leacher possessing B. Ed (Special Education) or D. Ed (Special Education) qualification shall undergo an NCTE recognized 6 - month special programme on elementary.aducation.

- A teacher of class I to V with B. Ed qualification who has completed a 6-month Special Basic Teacher Course (b) (Special BTC) approved by the NCTE;
- A teacher appointed before the 3th September, 2001, in accordance with the prevalent Recruitment Rules. (c)
- Teacher appointed after the date of this Notification in certain cases. Where an appropriate Government or local authority or a school has issued an advertisement to initiate the process of appointment of teachers prior to the date of this Notification, such appointments may be made in accordance with the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (as amended from time to time).

HASIB AHMAD, Member-Socy. (ADVTIMUITUIO-Boy.)

District Education Officer Nayagarh.



## IN THE HIGH COURT OF ORISSA: CUTTACK,

WA/ - No. 2188 of 2023

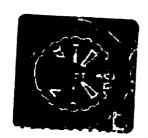
M E M O

I/We hereby enter my appearance in the above noted case on behalf of the Petitioners / Appellants.

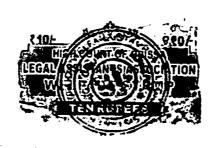
Cultack
Date: 24-8-23



SRI KARUNAKAR DAS Addi. Standing Counsel En. No.-O 1828/11/49 Mob 84112 (11/6) karunasa da. ka. d. mailicin









2 9 AUG 2023

IN THE HIGH COURT OF ORISSA : CUTTAGE

1.A No. 5925 of 2023.

(Arising out of W.A No.  $\sim 18$  of 2023.)

### IN THE MATTER OF:

An application under Chapter - VI, Rule 27(A) of the High Court of Orissa.

## IN THE MATTER OF:

An application under Section 5 of the limitation Act for condonation of delay.

**AND** 

### IN THE MATTER OF:

State of Odisha and others. ... Appellants.

-Versus -

Chiranjibi Jaysingh ... Respondent.

TO

THE HON'BLE CHIEF JUSTICE, ORISSA HIGH COURT AND HIS LORDSHIPS COMPANION JUSTICES OF THE SAID HON'BLE COURT.

The humble petition of the appellants named above;

SRI KARUNAKAR DAS Addi. Standing Coursel Addi. No. 0-362411949

B. MISHRA NOTARY, CUTTACK ODISHA Rejoshow Pathanach, District Education Univer

### MOST RESPECTFULLY SHEWETH

1. That, appellants above named, who are the functionaries of State of Odisha, have filed the present intra-court appeal challenging the order dated 11.11.2022 passed by the Hon'ble Single Judge in W.P. (C) No. 19190 of 2022, wherein the Hon'ble Single Judge was pleased to pass the following order;

"XXX XXX XXX

Therefore, in view of the detailed reasons stated Judgment dated 11.11.2022 passed by this Court in W.P.(C) No. 15345 of 2022( Balabhadra Majhi V. State of Odisha and Ors), this Writ Petition stands disposed of in terms of the said Judgment."

XXX XXX XXX

- 2. That, the averments made in the memorandum of appeal may be read and treated as part and parcel of this application and those are not reiterated for the sake of brevity.
- 3. That, the above said writ petition was disposed of by the Hon'ble Single Judge vide order dated 11.11.2022. After receipt of the above said order dated 11.11.2022 necessary consultation were made with the Government authorities and accordingly the Government after examination of the case of the

B. MISHRA NGTARY, CUTTACK ODISHA

GH FILED 29 AUG 2023

present Respondent (Writ Petitioner Instructed the Director, Elementary Education, Odisha, Bhubaneswar vide letter dtd. 27.4.2023 to file Writ appeal challenging the order dtd. 11.11.2022 passed in the W.P. No. 15345 of 2022 filed by Balabhadra Majhi and other similar cases. Thereafter, the Director, Elementary Education vide letter dtd. 18.5.2023 instructed this deponent to file Writ appeal challenging the order dated 11.11.2022 passed by the Hon'ble Single Judge in W.P. (C) No.15345 of 2022 filed by Balabhadra Majhi and other similar cases.

- 4. That, it is humbly submitted that after receipt of the above said instruction from the Director, Elementary Education, Odisha, Bhubaneswar, this deponent moved the office of the Advocate General, Odisha, Cuttack for drafting of intra-court appeal.
- 5. That, it is humbly submitted that it is well settled in law that when technicality is pitted against substantial justice, substantial justice is to be given preference over technicality. It is also well settled that ground of limitation is a technicality.
- 6. That, it is humbly and respectfully submitted that the delay caused for filing of intra-court appeal is bonafide, unintentional and not willful; on the other hand the delay caused for filling of the memo of appeal

Porskree Patanach District Education Officer Navagarh.

A PAC

B. MIŠHRA NOTARY, CUTTACK ODISHA

is due to observation of the official formalities and due to above mentioned intervening circumstances.

That, it is humbly submitted that in the interest 7. of justice, equity and fair play the delay in filing the writ appeal may be condoned and the same may be heard on merit.

### PRAYER

Therefore, in view of the above facts and circumstances, it is humbly prayed that this Hon'ble Court may graciously be pleased to allow this petition by condoning the delay of days in filling the writ appeal;

And pass any such other order/orders as this Hon'ble Court may deem fit and proper;

And for this act of kindness, the Appellants shall as in duty bound ever pray.

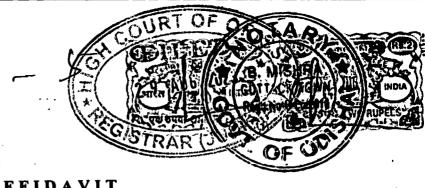
By the appellants through;

Cuttack.

Addl. Standler

Date: 24-8-23 O/O the A.G., Odisha, Cuttack.

B. MISHRA



#### AFFIDAVIT

I, Smt. Rajashree Pattanaik, aged about 58 years, Daughter of Late Sri Giridhari Pattanaik at present working as District Education Officer, Nayagarh, At/Po/Dist: Nayagarh, do hereby solemnly affirm and state as follows:-

- That, I have been duly authorized by other 1. appellants to swear this affidavit on their behalf.
- That the facts stated above are true to my 2. knowledge based on official records.

Identified by:

Advocate's Clerk.

A.G.'s office.

Depoff District Education Officer Nayagarh.

#### **CERTIFICATE**

Certified that due to non-availability of cartridge paper, white papers have been used.

Cuttack.

Addl. I fandler Counsel Date: 24-8-230/O the A.G., Odisha, Cuttack.

SRI KARUNAKAR DA

Addi. Standing Counse En. No.-0-362611398

Sciemnly Sworn before me by. being identified by GN Batalhavocate & de

al Cuttack dated 29 08

NO FARY, CUTTACK OBISHA





26 OF 2023 I.A NO.

(Arising out of W.A No.

of 2023)

In the matter of:

An application under Chapter VI Rule-27(A) of the High Court of Orissa;

And

In the matter of:

An application to dispense with for filing of certified copy of order dtd. 11.11.2022 passed in W.P(c) No. 19190 of 2022 by the Hon'ble Single Judge, under Annexure-1 to the present writ appeal;

And

In the matter of:

Appellants. State of Odisha and others

-Versus -

Respondent. Chiranjibi Jayasingh

TO

THE HON'BLE CHIEF JUSTICE OF THE HON'BLE HIGH COURT OF ORISSA AND HIS LORDSHIP'S OTHER COMPANION HON'BLE **SAID** THE **OF** JUSTICES COURTT.

The humble petition of the

#### MOST RESPECTFULLY SHEWETH:

- 1. That, the appellants above named who are the functionaries of the State of Odisha have filed the present writ Appeal challenging the order dtd. 11.11.2022 passed in W.P(c) No. 19190 of 2022 by the Hon'ble Single Judge, under Annexure-1 to the present writ appeal.
- 2. That, the averments made in the writ appeal may be read as part and parcel of this interim application and those are not reiterated here for the sake of brevity.
- 3. That, it is respectfully submitted that the certified copy of order dtd. 11.11.2022 passed in W.P(c) No. 19190 of 2022 by the Hon'ble Single Judge, under Annexure-1has been applied for and soon after receipt, the same will be filed before this Hon'ble Court.
- 4. That in view of the above said facts and circumstances, the Hon'blc Court may graciously be pleased to dispense with for filing of certified copy of order 11.11.2022 passed in W.P(c) No. 19190 of 2022 by the Hon'ble Single Judge, under Annexure-1.

Regarded Pather all, District Education Office:

B. MISATRA NOTARY, CUTTACK ODISHA

DI.



#### PRAYER

Therefore, in view of the above facts and circumstances, it is most respectfully prays that your Lordships may graciously be pleased to allow this interim application and dispense with for filing of certified copy of order 11.11.2022 passed in W.P(c) No. 19190 of 2022 by the Hon'ble Single Judge, under Annexure-1;

And pass such other order/orders as may deem fit and proper.

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

By the Appellants through

CUTTACK DATE; 24-8-23

Addl. Sfard of Conne

SRI KARUNAKAR DAS Addi. Standing Counsel , V En. No. Q-1478/1499 Mod 3011213101

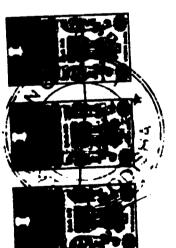
> B. MISTRA MOTTRY, CUTTACK IDIOHA



#### AFFIDAVIT

I, Smt. Rajashree Pattanaik, aged about 58 years, Daughter of Late Sri Giridhari Pattanaik at present working as District Education Officer, Nayagarh, At/Po/Dist: Nayagarh, do hereby solemnly affirm and state as follows:-

- That I have been duly authorised by the other 1. Respondent to swear this affidavit on their behalf.
- That the facts stated above are true to my 2. knowledge, based on official records.



Identified by:

Advocate Clerk, A.G. Office.

Listlick Education Officer Nayagarh.

**CERTIFICATE** 

Certified that cartridge papers are not available.

CUTTACK. Dt. 24-8.2023. Addl. Standeng counsel

salemnly Sworn betgre me by..... being identified by GN Bonkadvocate's elera 

> NGTARY, CUTTACK ODISHA

COURT OF CASE OF THE STATE OF T

IN THE HIGH COURT OF ORISSA: CUTTACI

I.A No. 5927 of 2023.

(Arising out of W.A No. 2122 of 2023)

# GO CONTRACTOR OF THE PROPERTY OF THE PROPERTY

#### IN THE MATTER OF:

An application under Chapter VI Rule-27(A) of the High Court of Orissa;

**AND** 

#### IN THE MATTER OF:

An application praying for stay of operation of order dated 11.11.2022 passed by the Hon'ble Single Judge in W.P. (C) No. 19190 of 2022;

**AND** 

#### IN THE MATTER OF:

State of Odisha and others. ... Appellants.

-Versus -

Chiranjibi Jayasingh ... Respondent.

TO

THE HON'BLE CHIEF JUSTICE, ORISSA HIGH COURT AND HIS LORDSHIPS COMPANION JUSTICES OF THE SAID HON'BLE COURT.

The humble petition of the appellants named above;

SRI KARUNAKAR I

District Education Office.

B. MIŞHRA NGTARY, CUTTACK ODISHA

#### MOST RESPECTFULLY SHEWETH:

- 1. That, appellants above named, who are the functionaries of State of Odisha have filed the present memo of appeal challenging the order dated 11.11.2022 passed by the Hon'ble Single Judge in W.P. (C) No. 19190 of 2022.
- 2. That, the averments made in the writ appeal may be read as part and partial of this interim application and those are not reiterated here for the sake of brevity.
- 3. That, it is respectfully submitted that the grounds taken in the Writ Appeal are very good grounds and the appellants have a fair chance of success.
- 4. That, unless the operation of order dated 11.11.2022 passed by the Hon'ble Single Judge in W.P. (C) No. 19190 of 2022 is stayed then the appellants will suffer irreparable loss and hardship.
- 5. That, in view of the above said facts and circumstances, this Hon'ble Court may graciously be pleased to stay the operation of order dated 11.11.2022 passed by the Hon'ble Single Judge in W.P. (C) No. 19190 of 2022 till disposal of writ Appeal.

#### PRAYER

Therefore, in view of the above facts and circumstances, it is most respectfully prayed that your Lordships may graciously be pleased to allow this interim application and kindly stay the operation of order dated 11.11.2022 passed by the Hon'ble Single

Rajeshare Pattanach District Education Office:

A THE

B. MISHRA NOTARY, CUTTACK ODISHA

AU6 2023

Judge in W.P. (C) No. 19190 of 2022 till 30 of the above intra-court appeal;

And pass such other order/orders as may deem fit and proper.

And for this act of kindness, the appellants shall as in duty bound ever pray.

By the appellants through;

Addl. .... Cuttack. Date: 24-8-23 O/O the A.G., Odisha, Cuttack.

#### AFFIDAVIT

I, Smt. Rajashree Pattanaik, aged about 58 years, Daughter of Late Sri Giridhari Pattanaik at present working as District Education Officer, Nayagarh, At/Po/Dist: Nayagarh, do hereby solemnly affirm and state as follows :-

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- That the facts stated above are true to my 2. knowledge based on official records.

Identified by:

dvocate's Clerk, A.G.'s office.

rebree Pattanach,

CERTIFICATEDistrict Education Officer Navagarh.

Certified that due to non-availability of cartridge paper, white papers have been used.

Addl. Stand Cuttack. Date: 24-8-2-0/O the A.G., Odisha, Cuttack.

Solemnly Sworn before me by....... being identified by GNIAN Advocate & elem

SRI KARUNAKAR DA

ODISHA



दो र्रपर्य TWO RUPEES

IN THE HIGH COURT OF JUDIC TURE ORISSA GUTTACK 23320

W.A. No 2188 of 2023

Between

State of odisher ........ Applicant? Petitioner Chiranishis Jayasiy Versus ........ Respondent / Opposite Part

Know all men by the presents, that by this Vakalatnama I / We.

Chiranjibi Jayasingh aged about 51 years S/o Pravakar Jayasingh, a Gana Sikshyak under DEO, Nayagarh AT-Komanda, PO-Godipada, Odagaon Block, Dist-Nayagarh Appellant/ Respondent / Petitioner / Opposite Party the aforesaid revision/Appeal Case do hereby appoint retain retain MR. UMAKANT SAHOO, MR. H.K.DASH. Mr Jayanta Kumar Nanda & Mrs S. Das Advocate(s) to appear for me/us, in the above case and to conduct and prosecute (or defend) the same all proceeding that may be taken in respect of any application connected with the same or any decree or order passed therein including all application for return of documents or receipt of any moneys that may be payable to me / us in the said case and also in applications to review in appeals under Orissa High Court Order and in applications for leave to appeal to Supreme Court. I / we authorized my/our advocate(s) to admit any compromise lawfully entered in the said case.

Dated the /2-109/2023 Received from the executants satisfied and accepted as I hold no brief for the other gide.

(MR. Umakant Sahoo), BCE No O-354/2000

ADVOCATE, Cell 9437318637, Enel umakentscharatecte pamail rom

Accepted as above

Accepted as above

2437654079 (Mr. H.K.Dash, BCE No-O-234/16

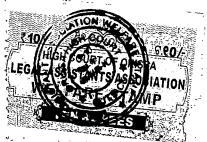
Cell No 9853492208)

(Mr Jayanta Kumar Nanda, BCE NO O-853/1991

Cell No 7008250699, ADVOCATE







#### SCANNED

#### COMPUTERISED FILING COUNTER ORISSA HIGH COURT, CUTTACK <u>ACKNOWLEDGEMENT SLIP</u>

Seat No:

Branch No:

Receipt No: 85865/2023

Date Of Receiving: 15/09/2023

Time: 01:15:30 PM

Case No : WA 2188/2023

Received From: Respondent

Filed By: M/S UMAKANT SAHOO

Document(s) Filed:

1- Vakalatnama --- Court Fee -Rs.12 (23320/2023)

### SCANNED

# COMPUTERISED FILING COUNTER ORISSA HIGH COURT, CUTTACK ACKNOWLEDGEMENT SLIP

Scat No: 6

Branch No: WRIT APPEAL

Receipt No: 148862/2024

Date Of Receiving: 06/12/2024

Time: 11:49:52 AM

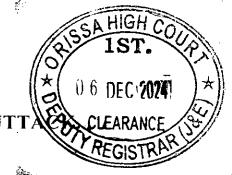
Filing No : **WA/2188/2023** Case No : **WA/2188/2023** 

Received From: Petitioner

Filed By: ADDITIONAL GOVT. ADVOCATE

Document(s) Filed:

3- Certified Copy ORDER -e-Filing hard copy(Govt.)



#### IN THE HIGH COURT OF ORISSA: CUTT

#### WA No. 2188 OF 2023.

STATE OF ODISHA & OTHERS	APPELLANTS,
-VR	RS-
CITILIDA SULUDI. FA SVA CISSOLI	DECDANDENT

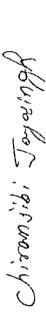
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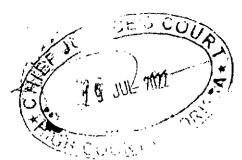
In pursuance of the Hon'ble High Cour order dated 03.12.2024 certified copy of impugned order dated 11.11.2022 passed in WP© No. 19190 of 2022 under annexure-1 is filed herewith in the above noted case.

Cuttack. Dt. 04.12.2024

Addl. Godd Advocate

Addl- Standing Counsel,







APPENDIX-I

CHAPTER-XV, Rule 3(1)

#### IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) No 19190 of 2022

Code No. 310200

In the matter of:

An application under Article 226 and 227 of the Constitution of India, 1950

AND

In the matter of:

of his early life devoted in the teaching services of the State Government, now rendered 'age barred' for securing a job elsewhere. Unfairly used him,

THE TWO RUPEES

generate hope and a feeling of security in him, attune his family to live within his earnings, though having eligibility for the teaching in primary school, but the Govt delayed his regularisation in service, compelling to face OTET at his middle age of retirement would run counter to the constitutional philosophy in Art. 41 of the Constitution.

AND

In the matter of:

Chiranjibi Jayasingh aged about 50 years S/o Pravakara Jayasingh presently as a Gana Sikshyak in Govt U.P. School, Komanda (B), AT-Komanda, PO-Godipada, PS-Saranakul, Dist-Nayagarh; ... Petitioner

**VERSUS** 





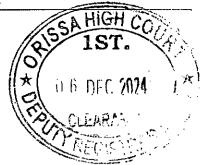
- 1. State of Odisha represented by the Principal Secretary to Government of Odisha, Department of School and Mass Education, Odisha, Lok Seva Bhavan, Bhubaneswar, Dist-Khurda, Pin-751001;
- 2. Director, Elementary Education, Odisha, Heads of Departmental Buildings, Odisha, Bhubaneswar, Khurda.
- The District Magistrate & Collector, Nayagarh District, AT/PO/Dist-Nayagarh-752069;
- 4. District Education Officer, Nayagarh District, AT/PO/Dist-Nayagarh-752069. ... ... OPPOSITE PARTIES











## IN THE HIGH COURT OF ORISSA AT CUTTACK W.P.(C) No. 19190 of 2022

Chiranjibi Jayasingh

Mr. Umakanta Sahoo, Adv.

Vs.

State of Odisha and others

Opposite Parties
Mr. S. Jena, S&ME

CORAM:

DR. JUSTICE B.R. SARANGI

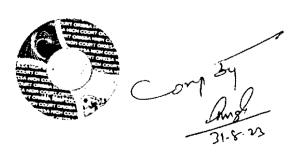
ORDER 11.11.2022

Order No.

This matter is taken up through hybrid mode.

- 2. Heard.
- 3. It is agreed by learned Counsel for the Parties that the issue involved in this Writ Petition is analogous to W.P.(C) No. 15345 of 2022 (*Balabhadra Majhi V. State of Odisha and Ors*), which has been disposed of by this Court, vide Judgment dated 11.11.2022.
- 4. Therefore, in view of the detailed reasons stated in the Judgment dated 11.11.2022 passed by this Court in W.P.(C) No. 15345 of 2022 (*Balabhadra Majhi V. State of Odisha and Ors*), this Writ Petition stands disposed of in terms of the said Judgment.

Ashok



Page 1 of 1

- Dr.B.R. Sarangé. J.

Date of Application :- 21-8
Date of Notification : 28-8
Date of Supply :- 61-12
Date of Ready :- 01-12
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Assistant Registrar (Estt.)

ORISSA HIGH COURT

Authorised Under Section-76, Act-1 of 1872



IN THE HIGH COURT OF ORISSA AT CUTTAG W.A. No. 2188 of 2023

State of Odisha and others

Appellants

Mr. Bimbisar Dash, Addl. Government Advocate

-versus-

Chiranjibi Jayasingh

Respondent

# CORAM: HON'BLE THE CHIEF JUSTICE HON'BLE MISS JUSTICE SAVITRI RATHO

#### <u>ORDER</u>

Order No.

01.

 $0\overline{3.12.2024}$ 

This matter is taken up through Hybrid mode.

#### I.A. No.5926 of 2023

- 2. This application has been filed by the appellants for dispensing with filing of certified copy of the order dated 11.11.2022 (Annexure-1).
- 3. Mr. Bimbisar Dash, learned Additional Government Advocate appearing on behalf of the appellants undertakes to file the certified copy of the impugned order within a week.
- 4. Considering the aforementioned submission, filing of the certified copy of the order under Annexure-1 is dispensed with for the time being. Let the certified copy of the order be filed within one week as undertaken.
- 5. The application stands disposed of.

#### W.A. No.2188 of 2023

6. List this matter on 10.12.2024.

(Chakradhari Sharan Singh) Chief Justice

> (Savitri Ratho) Judge

Signature Not Verified

SK Jena/Secy.

Digitally Signed
Signed by SANJAY KUMAR JENA
Designation: SECKE LARY
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Jocation: High Court of Orissa, Cuttack.
Date: 04 Dec-2024 12 49:55

IN THE HIGH COURT OF ORISSA: CUTTACH CLEARANCE CLEARANCE TO REGISTRATE.

#### WA No. 2188 OF 2023.

STATE OF ODISHA & OTHERS ..... APPELLANTS,

-VRS-

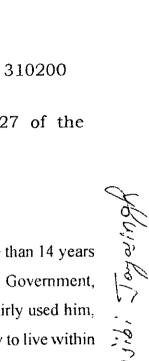
CHIRANJIBI JAYASINGH......RESPONDENT.

#### <u>M E M O</u>

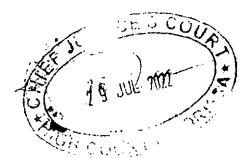
In pursuance of the Hon'ble High Cour order dated 03.12.2024 certified copy of impugned order dated 11.11.2022 passed in WP© No. 19190 of 2022 under annexure-1 is filed herewith in the above noted case.

Cuttack. Dt. 04.12.2024 Addl. God Advocate

Addl. Standing Counsel,



0 6 DEC 2024



APPENDIX-I

CHAPTER-XV, Rule 3(1)

#### IN THE HIGH COURT OF ORISSA: CUTTACK

W.P. (C) No 19190 of 2022

Code No. 310200

In the matter of:

An application under Article 226 and 227 of the Constitution of India, 1950

AND

In the matter of:

of his early life devoted in the teaching services of the State Government, now rendered 'age barred' for securing a job elsewhere. Unfairly used him,

There woo no sure

generate hope and a feeling of security in him, attune his family to live within his earnings, though having eligibility for the teaching in primary school, but the Govt delayed his regularisation in service, compelling to face OTET at his middle age of retirement would run counter to the constitutional philosophy in Art. 41 of the Constitution.

**AND** 

In the matter of:

Chiranjibi Jayasingh aged about 50 years S/o Pravakara Jayasingh presently as a Gana Sikshyak in Govt U.P. School, Komanda (B), AT-Komanda, PO-Godipada, PS-Saranakul, Dist-Nayagarh; ... Petitioner

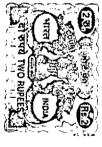
**VERSUS** 

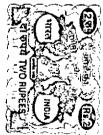




- 1. State of Odisha represented by the Principal Secretary to Government of Odisha, Department of School and Mass Education, Odisha, Lok Seva Bhavan, Bhubaneswar, Dist-Khurda, Pin-751001;
- 2. Director, Elementary Education, Odisha, Heads of Departmental Buildings, Odisha, Bhubaneswar, Khurda.
- 3. The District Magistrate & Collector, Nayagarh District, AT/PO/Dist-Nayagarh-752069;
- 4. District Education Officer, Nayagarh District, AT/PO/Dist-Nayagarh-752069. ... ... OPPOSITE PARTIES









.. &

512

## IN THE HIGH COURT OF ORISSA AT CUTTACK W.P.(C) No. 19190 of 2022

Chiranjibi Jayasingh

Petitioner

Mr. Umakanta Sahoo, Adv.

Vs.

State of Odisha and others

Opposite Parties Mr. S. Jena, S&ME

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER 11.11.2022

Order No.

This matter is taken up through hybrid mode.

- 2. Heard.
- 3. It is agreed by learned Counsel for the Parties that the issue involved in this Writ Petition is analogous to W.P.(C) No. 15345 of 2022 (*Balabhadra Majhi V. State of Odisha and Ors*), which has been disposed of by this Court, vide Judgment dated 11.11.2022.
- 4. Therefore, in view of the detailed reasons stated in the Judgment dated 11.11.2022 passed by this Court in W.P.(C) No. 15345 of 2022 (*Balabhadra Majhi V. State of Odisha and Ors*), this Writ Petition stands disposed of in terms of the said Judgment.

Ashok





Page 1 of 1

f-Dr.B.R. Sarangé. J.

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Date of Notification: 28-8
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Date of Delivery:

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Assistant Registrar (Estt.)

ORISSA HIGH COURT

Authorised Under Section-76, Act-1 of 1872



IN THE HIGH COURT OF ORISSA AT CUT? W.A. No. 2188 of 2023

State of Odisha and others

nd others .... Appellants
Mr. Bimbisar Dash, Addl. Government Advocate

-versus-

Chiranjibi Jayasingh

Respondent

# CORAM: HON'BLE THE CHIEF JUSTICE HON'BLE MISS JUSTICE SAVITRI RATHO

<u>ORDER</u>

Order No.

03.12.2024

01.

This matter is taken up through Hybrid mode.

#### 1.A. No.5926 of 2023

- 2. This application has been filed by the appellants for dispensing with filing of certified copy of the order dated 11.11.2022 (Annexure-1).
- 3. Mr. Bimbisar Dash, learned Additional Government Advocate appearing on behalf of the appellants undertakes to file the certified copy of the impugned order within a week.
- 4. Considering the aforementioned submission, filing of the certified copy of the order under Annexure-1 is dispensed with for the time being. Let the certified copy of the order be filed within one week as undertaken.
- 5. The application stands disposed of.

#### W.A. No.2188 of 2023

6. List this matter on 10.12.2024.

(Chakradhari Sharan Singh) Chief Justice

> (Savitri Ratho) Judge

Signature Not Verified

SK Jena/Secv.

Digitally Signed
Signed by: SANJAY KUMAR JENA
Designation: SECRETARY
Reason: Authentication
ocation: High Court of Orissa, Cuttack,
Date: 04-Dec-2024-12/49:55