

NO. 5179  
W.P.(C.) 2617/2005

FROM:



SUPERINTENDENT OF THE HIGH COURT OF ORISSA

To:

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- ✓ 1. The Secretary, Higher Education Department,  
At - Secretariat Building, Bhubaneswar,  
Dist. - Khurda
2. The Secretary to Government of Orissa,  
Finance Department,  
At - Secretariat Building, Bhubaneswar,  
Dist. - Khurda
3. The Director, Higher Education, Orissa,  
Heads of Department Building, Bhubaneswar,  
Dist. - Khurda

Dated, Cuttack the 21.2. 2011

Sir,

I am directed to forward herewith a copy of Court's judgment dated 12.1.2011 passed in W.P.(C) No. 2617.2005 (Chitta Ranjan Mohapatra & others - Vs - State of Orissa & others) for your informing and necessary action.

Yours faithfully,

  
18/2/11  
SUPERINTENDENT

SK





**ORISSA HIGH COURT : C U T T A C K**

**W.P.(C) NO.2617 OF 2005**

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

Chittaranjan Mahapatra & Others : Petitioners .

-Versus-

State of Orissa & Others : Opposite parties

For petitioners : M/s.B.Routray, D.K.Mohapatra,  
B.N.Satapathy, B.B.Routray,  
D.Routray & D.Mohapatra.

For O.Ps.1 to 3 : Mr.J.Pattnaik,  
Learned Additional Government

For O.P.4 : Mr.S.D.Das

PRESENT:-

**THE HONOURABLE MR. JUSTICE B.P.DAS  
A N D  
THE HONOURABLE KUMARI JUSTICE S.PANDA**

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Date of Judgment : 12.01.2011

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**B.P.Das, J.** The case of the petitioners, as delineated in the writ petition, is as follows :-

The petitioners are the teaching and non-teaching staff of an aided College, namely, Prahallad Mahavidyalaya at Padmabati in the district of Nayagarh. The said College is admitted to be +2 College established in the year 1986 and got the Government concurrence on 5.9.1986. On 4.3.1995 the College

submitted application in the prescribed Form-A for release of Grant-in-Aid in terms of the Grant-in-Aid Order, 1994. Ultimately, on 13.3.1997 the Director of Higher Education after verifying the original records and being fully satisfied recommended the case of the petitioners to the Government for release of Grant-in-Aid under the Grant-in-Aid Order, 1994 vide letter no.2195 dated 13.3.1997 (Annexure-6). Since no action was taken despite the recommendation of the Director, the petitioners filed O.J.C. No.9612/1999 and this Court by order dated 4.8.1999 while disposing of the same directed that if the matter was pending before the Government, a decision be taken within four months. Thereafter, the Government in pursuance of the said order dated 4.8.1999 communicated the decision to the Director that Grant-in-Aid would be released as and when funds would be made available for the purpose. The State Government by its letter dated 1.11.2000 rejected the claim for sanction of Grant-in-Aid to the College on the ground of financial constraint.

The petitioners against the said order of rejection again approached this Court in W.P.(C) No.7574/2000, which was disposed of on 1.11.2002 in terms of the judgment rendered **Prafulla Kumar Sahoo vrs. State of Orissa & Others**, 2003 (1) OLR-91, quashing the impugned notification dated 9.8.2000 issued by the Department of Higher Education with a direction to

h/s

re-consider the case of the petitioners for release of Grant-in-Aid strictly in accordance with the Grant-in-Aid Order, 1994. As the order of this Court dated 1.11.2002 was not implemented, this Court directed personal appearance of the Secretary to Government, Higher Education. But a plea was taken that the State Government has filed an application to review the decision rendered by this Court in the case of Prafulla Kumar Sahoo (supra).

2. Thereafter, the State Government moved the apex Court in a Special Leave Petition, which was converted to Civil Appeal No.4389/2006, challenging the judgment in Prafulla Kumar Sahoo so also several judgments and orders passed by this Court in terms of the decision in the case of Prafulla Kumar Sahoo (supra).

3. It is pertinent to mention here that when the matter was thus pending, the State Government in the Department of Higher Education came up with a Notification dated 5<sup>th</sup> February, 2004, Annexure-9, notifying "Orissa (Non-Government Colleges, Junior Colleges and Higher Secondary Schools) Grant-in-Aid Order, 2004 to regulate the payment of Grant-in-Aid to private educational institutions being non-Government Colleges, Jr. Colleges or Higher Secondary Schools. The aforesaid Order, 2004 is an amendment to the earlier Grant-in-Aid Order, 1994. Sub-