

In the High Court of Orissa at Cuttack

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

(Before Dr. A.K. Rath, J.)

Ritanjali Giri @ Paul Petitioner

v.

**State of Odisha represented through its Commissioner-cum-Secretary, School and Mass Education Department, Secretariat Building, Bhubaneswar and others
..... Opp. Parties**

For Petitioner: Mr. Gopinath Sethi, Advocate

For Opp. Parties: Mr. Mrityunjay Bisoi, Standing Counsel, School and Mass Education Department (For O.P. Nos. 1 to 4)

W.P.(C) No. 5022 of 2013

Decided on May 11, 2016

Dr. A.K. Rath, J.:— This petition challenges the order dated 13.07.2012 passed by the District Education Officer, Balasore, opposite party no. 4, whereby and whereunder the claim of the petitioner for appointment under the Rehabilitation Assistance Scheme was rejected.

2. The short facts of the case are that Manoj Kumar Paul, husband of the petitioner, was appointed as an Assistant Teacher on 01.01.2008 in Krushna Bhanu High School (hereinafter referred as "School"). He joined in the said post on 02.01.2008. He discharged his duty with the utmost satisfaction of the authorities. His post was duly approved by the Circle Inspector of Schools, Balasore Circle, Balasore. He received grant-in-aid (Block Grant) w.e.f.01.04.2008. While the matter stood thus, he passed away from the mortal world. After his untimely death, his family members received a serious setback, since he was the

sole bread-earner of his family. Thereafter, the petitioner filed an application on 25.06.2012 before the opposite party no. 4 for being appointed under the Rehabilitation Assistance Scheme (hereinafter referred as "Scheme"). By order dated 13.07.2012, the opposite party no. 4 rejected the application of the petitioner holding inter alia that the Scheme is not available with the legal heirs of teachers/employees of Block Grant High Schools.

3. Pursuant to issuance of notice, counter affidavit has been filed by the opposite party no. 4. It is stated that the School in question is a Block Grant High School. The petitioner is not entitled for appointment under Rehabilitation Assistance Rule, 1990. The service condition of the employee of Block Grant High School has not been finalized by the Government. It is further stated that the Finance Department in its letter dated 02.02.2000 imposed restriction of filling up the vacancies in the aided educational institutions for which the benefits of the Scheme was not extended to the member of the families of the employees of fully aided educational institutions. Recently, the Finance Department have agreed to fill up the base level vacancies in the educational institutions by extending the Scheme in fit cases by Resolution dated 26.04.2011. Thereafter, the Government of Orissa in School and Mass Education Department have issued clarification on 21.06.2011 stating therein that all pending applications under the Scheme of aided educational institutions (Fully Aided under direct control of Government due to death of invalid on or after 24.09.1990) shall be scrutinized by the existing screening committee for consideration of appointment under the Scheme. The School where the husband of the petitioner was serving does not come within the meaning of fully aided educational institutions.

4. Heard Mr. G. Sethi, learned counsel for the petitioner and Mr. M. Bisoi, learned Standing Counsel for the School and Mass Education Department.

5. In course of hearing, Mr. Bisoi, learned Standing Counsel for the School and Mass Education Department produced the Scheme issued by the Government of Orissa in G.A. Department on 14.10.1998. On a cursory perusal of the said Scheme, it is evident that the Government of Orissa have decided that the benefit of the Scheme shall be extended to the family members of non-Government Primary School Teachers, Teaching and non-Teaching staff of aided educational institutions under the Education Department, the work charged employees of the State Government and the employees of the Public Sector Undertakings under

the State Government. It further postulates that the provision laid down in the Orissa Civil Service (Rehabilitation Assistance) Rules, 1990 as amended from time to time shall mutatis mutandis be applicable to the families of the employees of the above categories w.e.f.24.09.1990.

6. The sole question that hinges for consideration is as to whether the benefit of the Scheme applies to the family members of an aided educational institution, which is receiving Block Grant?

7. Section 3(b) of the Orissa Education Act, 1969 defines the Aided Educational Institutions, which is quoted hereunder:

“3(b) Aided Educational Institutions means private educational institution which is eligible to, and is receiving grant-in-aid from the State Government, and includes an educational institution which has been notified by the State Government to receive grant-in-aid.”

8. On a bare perusal of the aforesaid provision, it is abundantly clear that private educational institution which is eligible to, and is receiving grant-in-aid from the State Government, and includes an educational institution which has been notified by the State Government to receive grant-in-aid is an aided educational institution. The Act does not make any distinction between the full Grant School or Block Grant School. Moreover, the private educational institution which has been notified by the State Government to receive grant-in-aid is also an aided educational institution.

9. The application of the petitioner was rejected by the opposite party no. 4 on untenable and unsupportable ground. In view of the above discussion, this Court has no option but to quash the order dated 13.07.2012 passed by the District Education Officer, Balasore, opposite party no. 4. The matter is remitted back to the opposite party no. 4. The opposite party no. 4 is directed to consider the application of the petitioner within a period of three months from the date of production of a certified copy of this order.

10. The writ petition is allowed. No costs.