

ORISSA HIGH COURT : CUTTACK

W. P.(C) NOs. 15362 OF 2008

And

W.P.(C) Nos. 6853 and 7721 OF 2009

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

In WPC 15362/2008

Parsuram Agarwala Petitioner
-Versus-
State of Orissa & others. Opp. Parties

For Petitioner : M/s. Mahadev Mishra &
D.K. Parida.

For Opp. Parties : Addl. Government Advocate
(For O.P.No.1).

M/s. D.M. Mishra, H.K.Mund and
J.Sahu,
(For O.Ps 4 to 6.)

M/s. B.Sahu, A.K.Mishra,
A.K. Sharma, M.K. Dash,
P.K. Dash and S.Mishra
(For opp. Parties 2 and 3)

In WPC No. 6853/2009

Sundarlal Agrawal Petitioner__

-versus-
State of Orissa and others Opp. Parties

For petitioner: Mr. B.R.Sarangi

For opp. Parties: Addl. Govt. Advocate
(For O.P. No.1)

M/s. A.K.Mishra, A.K.Sahoo,
M.K.Das, P.K.Dash and
R.S.Mishra,

(For O.P. No.3)
M/s. M.Chand, S.Khan,
M.K.Mohapatra, B.Parida &
S.P. Mishra.
(For O.P.No.6)

In WPC 7721/2009

Saroj Kumar Sahoo Petitioner

-Versus-

State of Orissa and others. ... Opp. Parties

For the petitioner: Mr. B.R. Sarangi.

For the Opp. parties: Addl. Govt. Advocate.
(for O.P. no.1.)

Decided on 08.09. 2009.

P R E S E N T :

THE HONOURABLE SHRI JUSTICE M. M. DAS

M.M. Das, J.

As all the aforesaid writ petitions arise out of the same facts and involve same question, all the three writ petitions are being disposed of by this common judgment.

2. The petitioner in W.P.(C) No. 15362 of 2008 challenges the legality of the letter dated 13.10.2008 under Annexure-5 to the writ petition by which the opp. Party no. 2 - Managing Director of the Orissa State Civil Supplies Corporation Ltd. (for short, 'the Corporation') enclosing the list of selected candidates for being appointed as Storage Agents for different blocks and Urban Local Bodies intimated the Collector, Kalahandi to call upon such selected candidates for

execution of necessary agreements so as to function as Storage Agents in the respective places. The petitioner was appointed as a Storage agent for the financial year 2005-06 and continued as such till 31.10.2006.

3. An advertisement was published in the local Oriya dailies inviting applications from intending persons/Cooperative Organizations/Self Help Groups/Women Self Help Groups for being appointed as Storage Agents in different Blocks/ULB for the year 2007-08. A time schedule was mentioned with regard to receipt/consideration/appointment/execution of agreement of such applicants who would be selected.

4. The petitioner pleads that as he suffered from serious illness, he could not make an application, but he is continuing as the Storage Agent for Dharamgarh Block in the district of Kalahandi. By the impugned letter, the opp. Parties 4 and 5 were selected to be appointed as Storage Agents for two years from the date of execution of the agreement.

By the interim order passed by this Court on 27.10.2008 in W.P.(C) No. 15362 of 2008, it was directed that status quo shall be maintained in respect of Storage Agency for Dharamgarh Block and the said interim order is still continuing.

5. The opp. Parties 4 and 5 in W.P.(C) No. 15362 of 2008 have preferred W.P. (C) Nos. 7721 of 2009 and 6853 of 2009

respectively, inter alia, making a prayer that they have been validly selected to function as Storage Agents in Daramgarh Block by the impugned letter and on receiving the communication dated 22.10.2008 from the Collector, they have deposited Rs. 1.00 lakh each as security with the Collector, Kalahandi and have also complied with the other provisions. Hence, as per the provisions contained in the guidelines and conditions stipulated in the appointment letter, a direction should be issued in the nature of mandamus to the opp. Parties 1 to 5 in W.P.(C) Nos. 6853 and 7721 of 2009 to give effect to the selection made pursuant to the impugned letter in W.P. (C) No. 15362 of 2008 and the subsequent letters issued to the petitioners in W.P.(C) Nos. 6853 and 7721 of 2009, which have been annexed as Annexures-4 and 5 to the said writ petitions.

6. A counter affidavit has been filed by the Corporation in W.P.(C) No. 15362 of 2008, inter alia, stating that the opp. Parties 5 and 6 in the said writ petition being the applicants were recommended by the Collector, Kalahandi for being appointed as Storage Agents and the Board of Directors of the Corporation, considering the recommendation of the public representative also included opp. Party no. 4 and selected him as a Storage Agent along with opp. Parties 5 and 6. The Board has been authorized to make such selection as per Clause-VII (1) of the

guidelines. It has been further averred in the counter affidavit that due to administrative dislocation, time schedule prescribed in the advertisement as well as in the guidelines could not be followed but subsequently, such selection has been made in accordance with the guidelines.

7. The Corporation has made out a case that the petitioner in W.P. (C) No. 15362 of 2008 being not an applicant pursuant to the advertisement issued in October, 2006, does not have the locus standi to challenge the selection of the opp. Parties 4 to 6 in W.P.(C) No. 15362 of 2008.

8. Public distribution system is controlled by the prescribed authority as per the P.D.S. (Control) Order latest being of the year 2008. Essential commodities are sold/distributed to the general public through retailers/sub-wholesalers/wholesalers and Storage Agents. If the appointment of such persons are made in accordance with the O.P.D.S. (Control) Order and the guidelines prescribed and no illegality or arbitrariness is found in such appointment, the same should not be interfered with in a judicial proceeding, for the interest of the general public. In the instant case, on examining all aspects of the matter and on considering the submissions made by the learned counsel for the respective parties, this Court does not find any arbitrariness/illegality or unreasonableness on the part of the Corporation in appointing the

opp. Parties 4 to 6 in W.P. (C) No. 15362 of 2008 as Storage Agents of Dharmagarh Block, out of whom, the opp. Parties 4 and 5 have preferred the other two writ petitions.

9. Without entering into the question as to whether the petitioner in W.P.(C) No. 15362 of 2008 has a locus standi or not to file the writ petition, in view of the aforesaid conclusion, this Court is not inclined to interfere with the letter of appointment of the Storage Agents in respect of Dharamgarh Block in the district of Kalahandi. Accordingly, W.P. (C) No. 15362 of 2008 stands dismissed. Consequently, the interim order passed in W.P. (C) No. 15362 of 2008 stands vacated.

10. W.P. (C) Nos. 6853 and 7721 of 2009 are disposed of with a direction to the Collector, Kalahandi to allow the petitioners in the said writ petitions along with the opp. Party no. 6 in W.P. (C) No. 15362 of 2008 to execute necessary agreements and function as Storage Agents strictly in accordance with the conditions imposed in the letter of appointment and the guidelines. No order as to costs.

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M.M. Das, J.

*Orissa High Court, Cuttack.
 September 8th, 2009/Biswal.*
