

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

**W.P.C(OAC) No.1061 of 2013**

**Mahananda Mahalik**

....

**Petitioner**

*-versus-*

**State of Odisha & Others**

....

**Opposite Parties**

**COROM:**

**JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER**

**29.07.2022**

**Order No**

**5.**

- 1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. S. Mallik, learned counsel for Petitioner and Mr. Mishra, learned Standing Counsel for the State-Opposite Parties.
- 3.** The Petitioner is aggrieved by the order of disengagement issued by the Collector, Nawarangpur vide order No.1890 dated 14.09.2010.
- 4.** It is submitted that the Petitioner while continuing as Trained Graduate Teacher in Govt. S.S.D., Girls High School, Joginga in Upper Madhuguda under Kotagarh Block in the district of Nawarangpur, the Petitioner because of his implication in a criminal case was disengaged by the Collector without prior notice vide order dated 14.09.2010 under Annexure-4.
- 5.** Mr. Mallik, learned counsel for the Petitioner submitted that in the meantime the Petitioner was acquitted in the said criminal case vide judgment dated 9.4.2012 passed by the learned Sessions Judge, Nawarangpur in Criminal Appeal No.20 of 2011 under Annexure-5. It is further submitted that after his

acquittal the Petitioner though approached the opposite parties time and again seeking his reinstatement, but the Collector rejected his claim vide order dated 15.03.2013 under Annexure-8.

**6.** Mr. Mallik submitted that since the Petitioner was terminated because of his implication in a criminal case and he has been acquitted in the meantime, his prayer for reinstatement needs consideration by the Opposite Parties. In support of the same, he brought to the notice of this Court, a decision reported in **2014(1) ILR CTC, 1070**. Relying on some decisions passed by the Hon'ble Apex Court, this Court in the said decision has held that after such acquittal, the employee concerned is required to be reinstated in his previous post.

**7.** Mr. Mallik also brought to the notice of this Court another decision reported in **2002(Suppl.) OLR-524**. In the said reported decision Hon'ble Court in Para-5 held as follows:-

*“ We may take that as the conviction was set aside, it has to be taken as if he was never convicted. In other words, with the order of acquittal the misconduct following his conviction no more subsists. With the order of acquittal, the misconduct based on co-called conviction stands affected. As the basis for dismissal no more exists for the reasons aforesaid, the impugned order of dismissal is liable to be quashed”.*

**8.** Mr. Mallik submitted that since the Petitioner has been acquitted in the meantime let him approach the Opposite Party No.2 for his reinstatement.

**9.** Considering the submission made by the learned counsel for the Parties, this Court while setting aside the order dated 14.09.2010 and dated 15.03.2013 under Annexures-4 & 8 respectively, direct the Opposite Party No.2 to take a fresh decision with regard to reinstatement of the Petitioner within a period of three months from the date of receipt of this order.

**10.** It is observed that while taking such a decision, the said Opposite Party No.2 shall take into consideration the decision of this Court as cited (supra).

**11.** With the aforesaid observations, the Writ Petition stands disposed of.

**(Biraja Prasanna Satapathy)**  
**Judge**

Subrat

