



AFR

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.76 of 2025

In the matter of Appeal under Clause 10 of the Letters Patent of Patna High Court read with Article 4 of the Orissa High Court Order, 1948 from judgment dated 24.04.2024 passed by the learned Single Judge in W.P.(C) No.5733 of 2024.

1. *State of Odisha, represented through its Commissioner-cum-Secretary to Government, Higher Education Department.*

2. *The Sub-Collector, Sambalpur-cum-President, Governing Body, Mandhata Baba, Higher Secondary Schools, Maneswar*

... *Appellants*

-versus-

1. *Sunil Kumar Bhainsa.*

... *Respondent*

2. *The Sr. Accounts Officer, Odisha, Office of the Principal Accountant General (A & E), Odisha*

3. *The Finance Department, represented by its Principal Secretary, Government of Odisha*

4. *The Principal-cum-Secretary, Mandhata Baba Higher Secondary School, Maneswar.*

... *Proforma Respondents*

Advocates Appeared in this case

For Appellants - Mrs.Suman Pttanayak, AGA

For Respondents -



CORAM :

MR. JUSTICE KRISHNA S. DIXIT

MR. JUSTICE CHITTARANJAN DASH

Date of Hearing & Judgment : 22.06.2026

PER KRISHNA S. DIXIT, J.

The State, in this Intra-Court Appeal, seeks to lay a challenge to a learned Single Judge's order dated 24.04.2024, whereby Respondent-employee's WP(C) No.5733 of 2024 having been favoured a direction has been issued to pay him the salary that has accrued due with effect from November 2022, within a period of four weeks. A further direction is also given to pay him salary as due and admissible on regular basis.

2. Having heard learned AGA appearing for the Appellant-State and having perused the appeal papers, we decline indulgence in the matter on the following grounds:

2.1. There is long delay of 231 days in filing the appeal. We do not find any plausible explanation for the delay brooked. Therefore, the application in I.A. No.331 of 2025 does not merit favourable consideration and accordingly it is dismissed.

2.2. The right to life guaranteed under Article 21 is not restricted or bound to mere physical existence of a person or their use of limbs to enjoy life but it also includes within its scope and ambit the right to live with basic human dignity and the State cannot



deprive these invaluable right because no procedure that deprives such rights and benefits can be regarded reasonable, fair and just, said the Apex Court in *Francis Coralie Mullin v. The Administrator*, AIR 1981 SC 746. In the case at hand, admittedly the Respondent-employee's salary that has accrued due since November 2022 has not been credited to him, and that falls foul of right to livelihood guaranteed under Article 21 of the Constitution as enunciated in *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180. In *Sanjit Roy v. State of Rajasthan*, AIR 1983 SC 328 it is observed that:

"...Whenever any labour or service is taken by the State from any person, ...the State must pay, at the least, minimum wage to such person on pain of violation of Article 23..."

2.3. Learned Single Judge has structured the impugned order in an inarticulate premise of doctrine against Begar enacted in Article 23 of the Constitution of India. In *People's Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473 it is observed as under:

"When the Constitution makers enacted Article 23 they had before them Article of the Universal Declaration of Human Rights but they deliberately departed from its language and employed words which would make the reach and content of Article 23 much wider than- that of Article 4 of the Universal Declaration of Human Rights... Wilson's glossary of Judicial and Revenue Terms gives the following meaning of the word 'begar': "a forced labourer, one pressed to carry burthens for individuals or the public. Under the old system, when pressed for public service, no pay was given. The Begari, though still liable to be pressed for public objects, now receives pay: Forced labour for private service is prohibited." "Begar" may therefore be loosely described as labour or



service which a person is forced to give without receiving any remuneration for 'it. That was the meaning of the word 'begar' accepted by a Division Bench of the Bombay High Court in S. Vasudevan v. S.D. Mital 'Begar' is thus clearly a form of forced labour. Now it is not merely 'begar' which is unconstitutionally prohibited by Article 23 but also all other similar forms of forced labour. This Article strikes at forced labour in whatever form it may manifest itself, because it is violative of human dignity and is contrary to basic human values. The practice of forced labour is condemned in almost every international instrument dealing with human rights...

...We are therefore of the view that where a person provides labour or service to another for remuneration which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words 'forced labour' under Article 23. Such a person would be entitled to come to the court for enforcement of his fundamental right under Article 23 by asking the court to direct payment of the minimum wage to him so that the labour or service provided by him ceases to be 'forced labour' and the breach of Article 23 is remedied..."

2.4. The Karnataka High Court in *Sri Srinivasa v. The Deputy Commissioner*, 2020:KHC: 12415 reiterating what has been held in *State of Gujarat v. Hon'ble High Court of Gujarat*; AIR 1998 SC 3164 has observed that even if a serving convict is made to work within the precincts of the Jail, he is constitutionally entitled to receive equitable & fair wages for his labour. Moreover, the State, being a model employer vide *Bhupendra nath Hazarika v. State of Assam*, AIR 2013 SC 234, an employee, who has worked in the State Employment for a particular period even during the pendency of a disciplinary proceeding, cannot be justifiably denied wages that have accrued because of his striving. That is the underlying philosophy of Article 23 of our Constitution. Thus, the



reasoning of the learned Single Judge, regardless of arguable infirmity, does not warrant interference of this Court.

In the above circumstances, the Appeal being devoid of merits is liable to be rejected *in limine* and accordingly, it is. The order of the learned Single Judge shall be complied with within an outer limit of eight (8) weeks.

Nothing stated herein above shall cast a shadow on the pending case wherein the Respondent-employee is said to have called in question the Disciplinary Proceedings.

This Court places on record its deep appreciation for the able research and assistance rendered by its official Law Clerk-cum-Research Assistant Mr. Mohammed Nihad Sharief.

Registry to send a copy of this order by Speed Post to the Respondent-employee immediately.

Web copy of this order to be acted upon by all concerned.

(Krishna S. Dixit)
Judge

(Chittaranjan Dash)
Judge