

[2022 LiveLaw \(SC\) 51](#)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

DR. DHANANJAYA Y. CHANDRACHUD; A.S. BOPANNA, JJ.

January 05, 2022

Civil Appeal No 154 of 2022 (Arising out of SLP(C) No 15321 of 2020)

State of Orissa & Ors Versus Prasanta Kumar Swain

Constitution of India, 1950 : Article 226 - Writ Petition - High Court should apply its mind to the grounds of challenge and to the submissions made.

(Arising out of impugned final judgment and order dated 14-02-2019 in WP(C) No. 6658/2014 passed by the High Court of Orissa at Cuttack)

For Petitioner(s) Mr. Shibashish Misra, AOR For Respondent(s) Mr. Sahil Tagotra, AOR Ms. Snigdha Dash, Adv.

ORDER

1. Leave granted.

2. While considering a challenge by the State of Orissa to the judgment and order dated 14 November 2012 of the Orissa Administrative Tribunal ["Tribunal"] in OA No 163 of 2008, the High Court, by its order dated 14 February 2019, dismissed the petition with the following order:

"Heard learned counsel for the parties.

By way of this writ petition, the petitioners have challenged the judgment and order dated 14.11.2012 passed by the Orissa Administrative Tribunal, Bhubaneswar in OA No. 163 of 2008.

Taking into consideration the opposite party is working for a period of three decades, it will not be appropriate for us to disturb the findings of the Tribunal.

Accordingly, the writ petition stands dismissed.

However, this will not be treated as precedent."

3. *Ex facie*, there has been no application of mind by the High Court to the grounds of challenge or to the submissions. In fact, the concluding line of the order of the High Court indicates that the decision will not be treated as a precedent. This was an inappropriate manner of disposing of a substantive petition under Article 226 of the Constitution since the High Court is duty bound to apply its mind to whether the judgment of the Tribunal is sustainable on facts and law.

4. In the above background, we are constrained to set aside the judgment of the High Court and remit the proceedings back for a fresh decision. Accordingly, the impugned order dated 14 February 2019 is set aside and Writ Petition (C) No 6658 of 2014 is restored to the file of the High Court of Orissa for fresh disposal.

5. However, having regard to the fact that the proceedings before the Tribunal were instituted in 2008, we request the High Court to endeavour an expeditious disposal, preferably within a period of three months from the date of receipt of a certified copy of this order.

6. The appeal is accordingly disposed of.

7. Pending application, if any, stands disposed of.