

**IN THE HIGH COURT OF ORISSA AT CUTTACK****W.P.(C) No.34606 of 2021**

(Through Hybrid mode)

***Gourahari Lenka***

....

***Petitioner******-versus-******State of Odisha and others***

....

***Opposite Parties*****Advocates appeared in this case:****For petitioner:**

Mr. Subhransu Bhusan Mohanty, Advocate

**For opposite parties:**

Ms. Suman Pattanayak, AGA

**CORAM: JUSTICE ARINDAM SINHA****JUDGMENT****06.01.2023**

1. Mr. Mohanty, learned advocate appears on behalf of petitioner and submits, his client was included as a beneficiary in the housing scheme, under serial no.OR 1533285. The information obtained from the website was downloaded on 20<sup>th</sup> May, 2020, print of which is at page 11. He refers to order dated 22<sup>nd</sup> June, 2021 of co-ordinate Bench made in his client's earlier writ petition no.16682 of 2021. Two paragraphs from the order are extracted and reproduced below.

*“Regard being had to the facts and submissions and the nature of relief sought for, the writ petition is disposed of directing the Collector, Balasore-Opposite Party no.2 to*

*dispose of the representation of the petitioner vide Annexure-6 within a period of two months from the date of receipt of the certified copy or soft copy of this order.*

*Before parting with the order, I am constrained to say that there has always been alteration, addition and modification etc. in the selection list for Pradhan Mantri Awas Yojana with an ulterior or political motive, such action should be arrested by the bureaucrats courageously. I hope and trust that, the Collector, Balasore shall do well to help the petitioner in the best way possible.”*

2. The Collector purportedly acting pursuant to said order made impugned order dated 30<sup>th</sup> August, 2021 dismissing claim of petitioner to get the benefit.

3. Ms. Pattanayak, learned advocate, Additional Government Advocate appears on behalf of State and relies upon impugned order. A paragraph therefrom is extracted and reproduced below.

*“Although in SECC list Sri Gourahari Lenka and two of his sons namely – Narahari Lenka (elder Married), Ramahari Lenka (younger unmarried) claim to be three deferent families, but in actual they all live as one family with common mess. Hence, Sri Lenka and his sons should be considered as one family. One PMAY – G house has been allocated in the name of Sri Lenka’s elder son Sri Narahari Lenka. As per PMAY(G) guidelines, since one of the family members of Sri Lenka has already got a PMAY (G) house, rest of the family members become ineligible to get another PMAY(G) house. Upon verification Ration*

*Card and Electricity Bill it is detected that Sri Lenka and his sons, including Sri Narahari Lenka who has already got a PMAY – G house are covered under one ration card and also they have only one electricity connection. Based on the above verified facts, Sri Gourahari Lenka is ineligible to get a PMAY – G house.”*

Without prejudice she submits further, portal on the housing scheme has since been closed.

4. It cannot be disputed that petitioner’s name was included as a beneficiary and the information was duly obtained by petitioner on 20<sup>th</sup> May, 2020. Furthermore, there was clear direction by coordinate Bench to arrest action of altering the beneficiaries list. Nevertheless, the Collector made impugned order. There is no question here of adding petitioner’s name and, therefore, the portal being closed at present time has no bearing on the controversy. Prayers in this writ petition are, therefore, to give effect to the earlier direction.

5. A writ petition is maintainable to enforce order made in a previous writ petition was view taken in **Indrapuri Studio v. State of West Bengal**, reported in **2003 (3) Calcutta High Court Notes (CHN) 148**. Paragraphs 35 to 37 of the judgment available at **2003 SCC Online Cal 236** are reproduced below.

*“35. This writ petition is virtually a petition before this Court for enforcement of the order passed by this Court in the earlier writ petition. A second writ petition for enforcement of the earlier order is very much maintainable.*

*36. In the case of Bibekananda Mondal v. State of West Bengal, reported in (2003) 1 WBLR (Cal) 213, this Hon’ble Court specifically held that without initiating a proceeding for contempt, the Court can quash any order or proceeding done in disregard of such order which may also tantamount to contempt. The relevant portion from paragraph 6 of the said judgment is quoted hereunder:*

*“6. It is therefore, settled law that the second writ application is maintainable for implementation of an earlier order of the writ Court. This Court must issue proper directions for proper implementation of previous directions. Where there has been an order, the order must be complied with. An act done in wilful disobedience of a Court Order is not only contempt, but also, an illegal and invalid act. The language used in Article 226 of the Constitution of India is couched in comprehensive phraseology and the said Article recognizes a very wide power on the High Courts to remedy injustice wherever it is found.”*

*37. The Supreme Court in the case of Devaki Nandan Prasad v. State of Bihar, reported in AIR 1983 SC 1134, entertained a second writ application under Article 32 of the Constitution of India and passed specific order directing the authority to do what was earlier directed by the Supreme Court on the first writ application.”*

Enforcement is necessary since the authority has acted in teeth of said order dated 22<sup>nd</sup> June, 2021, having directed the Collector to help petitioner in the best way possible. The direction was made in

petitioner's earlier writ petition, where he prayed for implementing the benefit. The administration not having taken resort to law, of preferring appeal against it, said order has become final and direction made upon the authority, binding. Court is not inclined to enquire as to how initially petitioner's name was included in the beneficiary list. Information had regarding the inclusion was never disputed and cannot now be disputed in the manner resorted to by the authority.

6. Impugned order is set aside and quashed. Opposite party no.2 is directed to forthwith cause benefit under the scheme be extended to petitioner. The process must commence on action taken within four weeks of communication.

7. The writ petition is disposed of.

**(Arindam Sinha)**  
**Judge**

*Prasant*