

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.22903 of 2023

Satish Kumar Panigrahi

.... ***Petitioner***
Mr.S.Palit, Sr. Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***
Mr.Saswat Das, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
21.07.2023

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard Mr.S.Palit, learned senior counsel for the Petitioner, learned Additional Government Advocate, Mr.T.Patnaik, learned counsel appearing for the OPSC-Opp.Party No.2 and Mr.P.K.Parhi, learned D.S.G.I. appearing for Opposite Party No.3.
3. Learned senior counsel appearing for the Petitioner at the outset submitted that being aggrieved by the conduct of Opposite Party No.2 in not permitting the Petitioner to participate in the recruitment test, particularly the Personality test, the Petitioner has approached this Court by filing the present Writ Petition for a direction to Opposite Party No.2 to allow him to participate in the recruitment test under the PWD category. He further contended that in view of the provisions contained in Persons with Disability Act, 2016 provides that a candidate who has 40 percent of permanent

disability quota shall be provided to them for recruitment. Accordingly, so far as the present recruitment to the post of Odisha Civil Service Examination, 2021 under Annexure-2 is concerned, some seats were reserved for the candidates belonging to the PWD category.

4. The Petitioner had initially applied under the PWD category along with disability certificate issued by the concerned Medical authority indicating therein that the Petitioner has 40% temporary disability. The Opposite Party No.2 did not allow the Petitioner to further participate in the recruitment process and he was not allowed to appear in the personality test which is going on at the moment and shall continue up to 25th of this month. Relying upon the notice of the Central Government, learned counsel for the Petitioner argued that temporary disability which may end up with permanent disability and there is no improvement of the disability, which are also to be considered under the PWD category as provided under the 2016 Act. It was also contended by the learned senior counsel that relying upon the Central Government circular several High Courts have taken view that the candidates belong to such category have also been permitted even though they have incurred temporary disability of prescribed percentage which may eventually become permanent in nature. In course of his argument, learned counsel for the Petitioner referred to judgment in the case of **Anmol Kumar Mishra (Minor)-V.-Union of India and others** decided by the Hon'ble Delhi High Court reported in **2021 SCC Online Del 5148**. Specifically referring to Paragraph-15 of the judgment, it was argued that a general Rule under Clause 19.2 of the guidelines is that a disability would be certified if it is permanent. However, the temporary certificates are expressly contemplated if the condition is likely to worsen, and also

for specific purposes, such as for pursuing education and it was held by the Hon'ble Delhi High Court that the case under consideration falls in that category. Accordingly, the Writ Petition was disposed of with certain direction. It is further contended by the learned counsel for the Petitioner that the guidelines referred to and taken note of by the Hon'ble Delhi High Court in its judgment in **Anmol Kumar Mishra(Minor)** (supra) was under section 56 of the 2016 Act. In such view of the matter, learned Senior Counsel for the Petitioner submitted before this Court that unless the Petitioner is permitted to further participate in the recruitment process and is given an opportunity to participate in the personality test, he will be seriously prejudiced.

5. Considering the submissions made by the learned counsel for the respective parties, this Court is inclined to hear the matter further and accordingly notices be issued to the Opposite Parties.

6. Since Mr.Das, learned Additional Government Advocate accepts notice on behalf of Opposite Party No.1, one extra copy of the Writ Petition be served on him within three working days.

7. Since Mr.T.Patnaik, learned counsel appearing for the OPSC accepts notice on behalf of Opposite Party No.2, one extra copy of the Writ Petition be served on him within three working days.

8. Since Mr.Parhi, learned D.S.G.I. accepts notice on behalf of Opposite Party No.3, one extra copy of the Writ Petition be served on him within three working days.

9. Counter Affidavit be filed within four weeks.

10. List this matter in the 1st week of September, 2023.

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11. Notice as above.

12. As an interim, it is directed that the Opposite Party No.2 shall

allow the Petitioner to participate in the personality test which is going on at the moment. However, the result of the recruitment shall not be published without leave of this Court. The Opposite Party no.1 is further directed to constitute a Medical Board and the Petitioner be sent to the Medical Board for examination. The certificate be issued by the Medical Board after examination of the Petitioner and shall be produced before this Court by the next date. The Opposite Parties are deiced to act on production of certified copy of this order.

13. Issue urgent certified copy of this order in course of the day.

RKS

