IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.9853 of 2024

(In the matter of application under Article 226 of the Constitution of India).

Mamata Rout and others … ***Petitioners***

-versus-

State of Odisha and others … ***Opposite Parties***

For Petitioner : ***Mr. S. Srichandan, Advocate***

For Opposite Parties : ***Mr. A. Pradhan, ASC (OPNos.1 and 8)***
Mr. R.N. Parija, Advocate (OPNos.13, 14 & 15)

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING :12.02.2025
DATE OF JUDGMENT:25.02.2025

G. Satapathy, J.

1. The petitioners by means of this writ petition have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India by praying to direct OPNo.8 to effectuate transfer of charge of Champua BLF in favour of the petitioners in accordance with Resolution dated 21.01.2023 under Annexure-2 and

take necessary action against OPNos.13 to 15 for impeding the transfer of charge.

2. The facts in nutshell are that on 19.01.2023, OPNo.8 issued a letter to all the Presidents and Secretaries of Gram Panchayat Level Federations (in short, the "GPLFs") in Champua Block for holding a meeting for restructuring of Block Level Federation (in short, the "BLF") to be held on 21.01.2023. The petitioners accordingly claiming to have been elected as President, Secretary and Treasurer of Champua BLF in the election held on 21.01.2023 have laid claim to have become the office bearers of Champua BLF, but the earlier office bearers being OPNos.13 to 15 oppose such election of the petitioners and made certain allegation which was inquired into, but found to be false. According to the petitioners, the election was conducted by a panel consisting of BDO, BPC-cum-BPM, Mission Shakti; Lady Supervisor representing CDPO, Champua and PA-cum-BLC, Champua, in terms of the Mission Shakti Guidelines and all the GPLFs of 22 Gram

Panchayat remained present in the election to the Champua BLF, but the former President and Secretary of Champua BLF were notably absent. Despite restructuring of Champua BLF, OPNos.13 to 15 disputing the election have not handed over the charge to the newly elected office bearers and alleging against OPNos.13 to 15 for financial irregularities and misappropriation of funds, the petitioners got the signatories of new BLF Bank Account changed and also addressed letter to OPNo.8 to conduct BLF monthly meeting which was allowed and finally on 04.01.2024, the petitioners received Passbook of Champua BLF Bank Accounts, however, the Presidents and Secretaries of all GPLFs of Champua Block approached the District Collector, Keonjhar (OPNo.2) to transfer the charge from earlier office bearers to new office bearers, but in vain. Hence, this writ petition by the petitioners.

3. In the course of hearing, Mr. S. Srichandan, learned counsel for the petitioners has submitted that although the petitioners have been

validly elected to the Champua BLF, but OPNo.13 to 15 in collusion with OPNo.8 are not allowing the petitioners to perform their duties. It is further submitted that even though the Operation Manual for Federation provides for restructuring of BLF and election to Executive Committee (EC) members of BLF in every two years and Champua Block having been notified as a NAC since last five years, the restructuring of BLF was not done by the authority and taking note of all this things, OPNo.8 conducted election in which the petitioners got elected as President and Secretary of BLF, but OPNos.13 to 15 on one or some other pretext are not handing over charge of the BLF and, thereby, necessary direction be issued to the OPNo.8 to effectuate transfer of charge of Champua BLF to the petitioners. Mr.Srichandan, accordingly has prayed to allow the writ petition by directing OP No.8 to effectuate transfer of charge of the Champur BLF in favour the petitioners.

3.1. On the other hand, Mr. A. Pradhan, learned ASC appearing for OPNos.1 and 8, however, has submitted the election which was conducted by the then BDO was not in accordance with the Rules and, thereby, the dispute arose between old elected body and new elected body of Champua BLF and such election of the petitioners being in violation of Government instruction and the BDO being not authorized under Operation Manual to direct the old office bearers of Champra BLF to hand over the charge, the petitioners' claim being unmerited, no relief can be granted to them. Mr.Pradhan according has prayed to dismiss the writ petition.

3.2. In reiterating the plea of OPNos.1 and 8, Mr. Rudra Narayan Parija, learned counsel appearing for OPNos.13 to 15 has submitted that the election of the petitioners was never valid since it was not conducted by the panel authorized by Operation Manual and, therefore, the claim of the petitioners to the office of Champua BLF is illegal and unsustainable in the eye

of law. Accordingly, Mr. Parija has prayed to dismiss the writ petition.

4. After having considered the rival submissions upon perusal of record, it appears that OPNos.1 and 8 in their counter affidavit has clearly stated that Clause No.3.4 of the Operation Manual for SHG Federation prescribes a election panel, which consists of Deputy Collector, DSWO, Block Development Officer (BDO) and Child Development Project Officer (CDPO), but in the present case the election to the BLF was conducted by the then BDO, Champua in absence of Deputy Collector, DSWO, BDO, CDPO and the resolution recorded therein was forwarded to Chief Development Officer, Zilla Parishad for taking further action. Notably, Clause-3.4 of the Operation Manual of SHG Federation reads as under:-

> ***"3.4. Election Panel***
>
> *An Election panel will be constituted by*
>
> *(i) Deputy Collector,*
>
> *(ii) DSWO,*
>
> *(iii) Block Development Officer,*
>
> *(iv) Child Development Project Officer,*

underwhose observation, the election of EC members will be held in each block and DLF.

Subsequent to the election, the EC members, election result sheet, resolution and process report, will be signed and co-signed by the election panel and submitted to the federation office within 24 hours of the election held."

5. In the present case, the election to the Champua BLF was conducted by only the then BDO in presence of BPC-cum-BPM, Mission Shakti; Lady Supervisor on behalf of CDPO, Champua and PA-cum-BLC, Champua and representative of all GPLFs. It is to be reminded here that if a thing has to be done in a particular way, then the same thing has to be done in that way or not at all, but doing such thing by deviating the prescribed procedure will not be acceptable. In this regard, this Court considers it useful to refer to the decision in ***Nazir Ahmed vrs. King Emperor; AIR 1936 PC 253*** wherein the Privy Council had noted that when a statute, while conferring power, prescribes the mode of exercise of that power, the power has to be exercised in that manner, or not at all.

6. Be that as it may, it is, however, claimed by the petitioners and not denied by the OPs that

rotation of BLF and other executive members should be done once in a two years in terms of Clause-3.3(r) of the Operation Manual for Federation, but the same has not been adhered to in this case. It is also not in dispute that Champua has already become Notified Area Council (NAC) and, thereby, it is no longer a Gram Panchayat and, therefore, restructure is accordingly required. Further, OPNo.8 in its counter affidavit has admitted the election conducted by the then BDO not in consonance with the Rules, but he has not taken any step to declare such election to be inoperative or invalid. The petitioners, however, could not place before the Court or brought to the notice of the Court that the BDO is the authority as per guidelines to effectuate transfer of the charge of the BLF to its new incumbents at the time of assuming such office, rather it has been brought to the notice of the Court that in terms of Clause-5.3.1 of the SHG Operation Manual, the BDO is the Chairperson of the Advisory Committee without having any voting right.

7. Looking at the stand of OPNo.8-BDO, this Court feels that the election of the petitioners to the Office of the BLF either declared to be invalid or inoperative or the same is to be ratified, but taking no decision in this regard and terming such election to be not in consonance with the Rules by the official representative of the State puts the situation in quandary, which in any event, would not help anybody rather would impede the development and progress of the society concerned to which such BLF is associated. In the aforesaid situation and circumstance, especially when the election of the petitioners having not been done in accordance with the provisions of Operation Manual and no provision having brought to the notice of the Court by the petitioners to show that their election has been ratified by the authority concerned, this Court does not consider it proper to issue any direction to OPNo.8 to hand over the charge of BLF to the petitioners.

8. In the result, the writ petition being devoid of merit stands dismissed on contest, but in the circumstance there is no order as to costs.

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 25TH day of February, 2025/Kishore

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Reason: Authentication
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