



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.10146 of 2024

(In the matter of application under Articles 226 and 227 of the Constitution of India).

Sudharani Bhuyan ... ***Petitioner***

-versus-

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

For Petitioner : ***Mr. B.B. Mishra, Advocate***

For Opposite Parties : ***Mr. S.K. Rout, ASC***

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING :25.02.2025

DATE OF JUDGMENT:28.02.2025

G. Satapathy, J.

1. The petitioner, a member of Self Help Group (SHG) namely "Shakti Mata" by means of this writ petition has invoked the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India by praying to quash Letter No.29 dated 16.04.2024 (Annexure-5) issued by Chief Development Project Officer (CDPO), Tikabali and endorsed by Block Development Officer (BDO), Tikabali and directing to handover the "Mission Shakti Cafe" to her with consequential prayer for allowing to run such Cafe.



2. The factual matrix as unraveled in this writ petition are that the initially the petitioner was a member of "Maa Bharandi SHG" and the "Mission Shakti Cafe", Tikabali being inaugurated was handed over to the aforesaid SHG without any execution of formal agreement, but subsequently the petitioner formed another SHG in the name of "Shakti Mata" consisting 10 members and continued to run the "Mission Shakti Cafe" being allowed by the authority. According to the petitioner, she has invested Rs.5 Lakhs towards furnishing interior of the Cafe, but due to political dissension and influence, the BDO, Tikabali asked the petitioner to handover the key of the "Mission Shakti Cafe" on 14.04.2024, which led the petitioner to file a representation before the Collector, Kandhamal on 15.04.2024. However, the impugned letter of the CDPO was issued to the petitioner on 16.04.2024 directing her to handover the premises of the "Mission Shakti Cafe" within three days to "Satyajyoti Block Level Federation". Finding no other way, the petitioner has approached this Court in this writ petition.



3. In the course of hearing of the writ petition, Mr. B.B. Mishra, learned counsel for the petitioner submits by reiterating the facts that although no formal agreement was made, but the petitioner being a member of "Maa Bharandi SHG" was entrusted to run the "Mission Shakti Cafe", Tikabali, but when the members of "Maa Bharandi SHG" lost interest in running the "Mission Shakti Cafe", she forms another SHG namely "Shakti Mata" and continued with running of the "Mission Shakti Cafe" by investing a huge sum of Rs.5 Lakhs, but all of a sudden, due to political rivalry on account of petitioner not participating in a political rally, the BDO, Tikabali being influenced has issued the impugned letter under Annexure-5 which is not only contrary to law, but also violative of principle of natural justice. It is further submitted that neither any reasonable notice was given to the petitioner to vacate the premises, nor was any time granted to her while taking back the Cafe despite having an interim order to maintain status quo with regard to handing over the possession of "Mission Shakti Cafe". Mr. Mishra by referring to Annexure-5 has submitted that the "Mission



Shakti Cafe” was under the possession and management of the petitioner, but suddenly without providing any opportunity, the said Cafe was taken back without taking recourse to law by making an inventory on 20.04.2024. Further, Mr. Mishra by referring to Annexure-D/3 and E/3 appended to the counter affidavit filed by the OPNos.2 and 3 has submitted that in gross violation of the interim order of this Court, the learned SDM, Baliguda has passed order for conducting inventory without providing any opportunity to the petitioner and, thereby, it has grossly violated the principle of natural justice. In summing up his argument, Mr. Mishra has prayed to quash Annexure-5 and restore the “Mission Shakti Cafe” to the petitioner allowing her to run the said café.

3.1. On the other hand, Mr. S.K. Rout, learned ASC appearing on behalf of OPNos.2 and 3 has forcefully submitted that the petitioner was removed from “Maa Bharandi SHG” by way of a resolution dated 20.02.2024 of the said SHG, which was signed by all the members except the petitioner, which is clearly evident from Annexure-A/3 to the counter affidavit and,



thereafter, an application was invited from eligible SHGs for running of the Cafe by advertisement No.99 dated 23.02.2024 under Annexure-B/3, but since the petitioner was in unauthorized occupation of the said Café, the authority issued a letter to the petitioner to vacate the Cafe, however, despite such order, the petitioner remained in unauthorized occupation of the said Cafe and, thereafter, an inventory was made by the authority. Further, Mr. Rout has also submitted that since the petitioner was already removed from "Maa Bharandi SHG", Tikabali, she could claim the right to run the "Mission Shakti Cafe" and Annexure-F/3 to the counter affidavit clearly indicates the removal of petitioner from "Maa Bharandi SHG" by paying all her dues. It is further submitted by Mr. Rout that since the petitioner is forcefully occupying the SHG without any approval and agreement of the authority, her illegal action may not be perpetuated by quashing Annexure-5. Mr. Rout has, accordingly, prayed to dismiss the writ petition.

4. After having duly considered the rival submissions upon perusal of record, it is admittedly found that the petitioner was a member of "Maa Bharandi SHG",



but subsequently she created her own SHG namely "Shakti Mata". It is also not in dispute that the petitioner being a member of "Maa Bharandi SHG" was running "Mission Shakti Cafe" on behalf of such SHG, but such SHG by way of a resolution dated 20.02.2024 under Annexure-A/3, which was endorsed by all the members of "Maa Bharandi SHG" except the petitioner had expressed inability to run the Cafe and, thereafter, the authority concerned invited application from eligible SHGs by issuing an advertisement under Annexure-B/3 to take over the management of such Cafe. On a close scrutiny of the averments made in the writ petition, it goes without saying that the "Mission Shakti Cafe" was being run by "Maa Bharandi SHG" of which the petitioner was a member, but how she continued to run such Cafe through "Shakti Mata SHG" is not forthcoming and if the averments taken by the petitioner is to be believed, such arrangement was made on oral agreement and approval. Further, no document has been produced by the petitioner to show how she took over the management of such Cafe as a member of "Shakti Mata SHG". It is definitely a question of fact as to how the petitioner was



considered eligible to run "Mission Shakti Cafe", but no such document is forthcoming to answer such question.

5. Looking at the admitted pleadings of the parties, it is explicitly found that "Mission Shakti Cafe" is a Cafe opened by the Government and to be run and managed at Block Level through SHG and, therefore, the Commissioner-cum-Secretary, Department of Mission Shakti, Odisha has issued guidelines for running and management of such "Mission Shakti Cafe". It is, however, an admitted fact that no formal agreement was entered into by the petitioner with the representative of the Government to take on lease and run the "Mission Shakti Cafe", but the concerned department, Government of Orissa has the prerogative or authority to formulate scheme for running and management of such Cafe. In absence of any agreement, the petitioner cannot claim as a matter of right to run such Cafe inasmuch as the petitioner in an individual capacity is not authorized to run the Café which is to be run by a SHG, nonetheless, the petitioner claims to have the right to run the Cafe on the basis of



oral agreement and approval which is contrary to the scheme formulated for running of such Cafe, but in view of the denial of the OPs for issuance of any authority in favour of the petitioner to run "Mission Shakti Cafe", such question becomes a disputed question of fact, which cannot be decided by this Court in exercise of the writ jurisdiction.

6. No doubt the petitioner claims for violation of natural justice in overthrowing her from running and management of "Mission Shakti Cafe", but since such Cafe was required to be managed by a SHG, it could not be said that the petitioner has right to run such Cafe in an individual capacity. In the aforesaid background, especially when no document is forthcoming to suggest that the authority concerned has handed over the management of running of "Mission Shakti Cafe" to "Shakti Mata SHG", the petitioner cannot enforce her right over running of "Mission Shakti Cafe". It is the an assertion of the petitioner that since she did not participate in the political meeting, she was directed to hand over the key



of the Cafe, but again such fact is a question of fact only, which cannot be gone into in exercise of writ jurisdiction. It is no doubt claimed by the petitioner to have invested Rs.5 Lakhs for the development of "Mission Shakti Cafe", but such fact needs to be established by the petitioner in any competent Court of law. From a cumulative discussion of facts narrated above and considering the same on the backdrop of admitted documents as available under Annexure-5 to the writ and Annexures-A/3, B/3, D/3, E/3 and F/3 to the counter affidavit filed by the OPNos.2 and 3, this Court does not find any reasonable ground to interfere in the matter. Consequently, no ground is made out by the petitioner to persuade this Court to interfere with the impugned letter.

7. 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

Signature Not Verified

Digitally Signed
Signed by: SUBHASHMITA SASMAL
Designation: Jr. Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 28-Feb-2025 17:52:23

Orissa High Court, Cuttack,
Dated the 28th day of February, 2025/Subhasmita

WP(C) No.10146 of 2024

Page 9 of 9