

AFR



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A No. 612 of 2025

In the matter of an appeal under Clause 10 of the Letters Patent of Patna High Court read with Article 4 of the Orissa High Court Order, 1948 and Chapter-III, Rule 6 of Orissa High Court Rules, 1948 from order dated 04.07.2023 passed by the learned Single Judge in W.P.(C) No. 19016 of 2023.

Suchitra Mohapatra

.... Appellant

-versus-

- 1. State of Odisha represented through its
Commissioner- cum-Secretary, Govt. of Odisha
Department of School & Mass Education,
Bhubaneswar***
- 2. The Director of Elementary Education, Odisha,
Bhubaneswar, Khurda***
- 3. The Collector-cum-Chief Executive Officer, Zilla
Parisad, Gajapati, Paralakhemundi (Gajapati)***
- 4. District Project Co-ordinator, Samagra Sikshya,
Gajapati, Parlakhemundi (Gajapati)***
- 5. Block Education Officer, Mohana, Dist-Gajapati***

...Respondents

Advocates Appeared in this case

***For Appellant - M/s. Santosh Kumar Swain &
S.C. Bairiganjan, Advocates***



For Respondents - Mr. S.B. Mohanty, AGA

CORAM :

MR. JUSTICE KRISHNA SHRIPAD DIXIT
MR. JUSTICE CHITTARANJAN DASH

Date of Hearing & Judgment : 20.02.2026

PER KRISHNA S. DIXIT, J.

This Intra-Court appeal by a Sikhya Sahayak i.e. teacher, who having abandoned her service was disengaged from the post, now seeks to lay challenge to a Learned Single Judge's order dated 04.07.2023 whereby her W.P(C) No. 19016 of 2023 was negated essentially with the following observation:

"3. The petitioner has filed this writ petition challenging the disengagement order vide No. 1922 dated 20.10.2020 passed by Chief Executive Officer-cum- Collector, Zillaparisad, Gajapati on the ground of unauthorized absence since 20.06.2013 till date.

4. During course of hearing, learned counsel for the petitioner has failed to produce any authorization letter with respect to long unauthorized absent before the Court. Hence, this Court does not find any infirmity in the order passed by the District Project Office, RTE-SSA, Gajapati. Accordingly the writ petition is dismissed."

2. Ld. Counsel appearing for the Appellant vehemently argues that his client was appointed as Sikhya Sahayak for Upper Primary School, Gobindapur vide Engagement letter



No. 819 dated 20.04.2011; she was disengaged from service vide order dated 20.10.2020; she had filed a representation to rescind disengagement on 12.01.2021; the same having not been considered duly, there was a choate cause of action on which the Appeal was structured; however Ld. Single Judge having not treated the same in right perspective, indulgence of this Court is eminently warranted. Ld. AGA appearing for the State & its officials *per contra* opposes the appeal making submissions in justification of the order. He contends that the Appellant's Disengagement Order is valid on account of long unauthorized absence from service. The said Order issued by Respondent No. 3 reads as under:

"Disengagement Order"

Smt. Suchitra Mahapatra, Sikshya Sahayak, UPS Govindapur is long and unauthorized absence since 20 06.2013 for whatsoever the reason the very purpose of her engagement was defeated. Moreover, their curricular progress suffered the most, which is unrecoverable loss and that cannot be fulfilled by the authorities.

That her unauthorized absence in assignment has led to the breach of terms and conditions as stipulated in the contract agreement and contractual engagement order.

That consequent upon the above reasons and as per Para no. 4.4 of Government Resolution No. H-SME/LMC-150/06-637/SME dated 10.01.2008 of School and Mass Education Deptt. Odisha, Smt. Suchitra Mahapatra is hereby disengaged from the post of Sikshya Sahayak w.e.f the date of issue of this order.

*By the order of
Collector-cum-CEO. ZP, Ganjam
Sd/-..."*



3. Having heard learned counsel for the parties and having perused the appeal papers, we decline indulgence in the matter for the following reasons:

3.1. The Appellant sought intervention of Appellate Court after brooking a long delay of 592 days. An application is filed in I.A No. 1570 of 2025 supported by an Affidavit seeking its condonation. A perusal of the same does not make out a plausible explanation for the long delay. Casual facts are stated, that would happen in the routine way bureaucracy. Condoning delay on such explanation would amount to defeating the statutory purpose of prescribing limitation. Therefore, the application is liable to be rejected. However, we would like to undertake examination of matter on merits.

3.2. The Appellant has unauthorisedly abandoned her service as teacher from 20.06.2013; i.e. roughly for a long period of 7 years. A formal Disengagement Order came to be issued on 20.10.2020. It is clear that she has made no attempt whatsoever in these 7 years to resume her duty. She never bothered about the fate of school children, whom she had to teach. On the contrary, she was more bothered about her family. What difficulty the community of taught would be put to for want of a teacher leads one to a wild imagination. It is



more so in this competitive age. Teachers are revered as builders of nation. Such is the importance any civilized society would attach to the teaching job more particularly that are meant for tender minds. Therefore, our scriptures say 'gurubhyo namah', literally meaning 'salutations to the teacher'. The 11th President of India, late Dr. APJ Abdul Kalam (1931-2015) has said:

"Teaching is a very noble profession that shapes the character, caliber, and future of an individual..."

The conduct of delinquent Appellant militantly falls short of the obtaining standards and therefore she cannot be granted any relief in Constitutional Jurisdiction. Such a person cannot seek writ remedy provided under the Constitution of India.

3.3. The Respondent No. 3 having considered conscious abandonment of solemn duties by the Appellant has rightly issued a formal order of removal. It hardly needs to be stated that the *vinculum juris* of employer-employee comes to an end by removal, resignation, death in harness, retirement, determination of tenure or abandonment of duties with no intent to resume. That is how standard treatises on service jurisprudence and labour jurisprudence say. Samaraditya Pal on 'Law Relating to Public Service' 3rd Edition LexisNexis treats the subject at pages 985 & 986.



3.4. The Apex Court in *G.T. Lad v. Chemical & Fibres of India Ltd.*, (1979) 1 SCC 590, has observed as under:

"In the Act, we do not find any definition of the expression 'abandonment of service'. In the absence of any clue as to the meaning of the said expression, we have to depend on meaning assigned to it in the dictionary of English language. In the unabridged edition of the Random House Dictionary, the word 'abandon' has been explained as meaning 'to leave completely and finally; forsake utterly; to relinquish, renounce; to give up all concern in something'. According to the Dictionary of English Law by Earl Jowitt (1959 edition) 'abandonment' means 'relinquishment of an interest or claim'. According to Black's Law Dictionary 'abandonment' when used in relation to an office means 'voluntary relinquishment'. It must be total and under such circumstances as clearly to indicate an absolute relinquishment. The failure to perform the duties pertaining to the office must be with actual or imputed intention, on the part of the officer to abandon and relinquish the office. The intention may be inferred from the acts and conduct of the party, and is a question of fact. Temporary absence is not ordinarily sufficient to constitute an 'abandonment of office'."

What has been observed hereinabove aptly applies to the case of Appellant and therefore, the impugned order being inarticulately animated with the same cannot be faltered.

3.5. The Apex Court in *State of Punjab v. Dr. P.L Singla*¹ has observed as under:

"Where the employee who is unauthorisedly absent does not report back to duty and offer any satisfactory explanation, or where the explanation offered by the employee is not satisfactory, the employer will take recourse to disciplinary action in regard to the unauthorized absence. Such disciplinary proceedings may lead to imposition of

¹. (2008) 8 SCC 469.



punishment ranging from a major penalty like dismissal or removal from service to a minor penalty like withholding of increments without cumulative effect. The extent of penalty will depend upon the nature of service, the position held by the employee, the period of absence and the cause/explanation for the absence."

3.6. In *Government of India v. George Philip*², it has been observed as under:

"In a case involving overstay of leave and absence from duty, granting six months' time to join duty amounts to not only giving premium to indiscipline but is wholly subversive of the work culture in the organization. Article 51-A(j) of the Constitution lays down that it shall be the duty of every citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement. This cannot be achieved unless the employees maintain discipline and devotion to duty. Courts should not pass such orders which instead of achieving the underlying spirit and objects of Part IV-A of the Constitution have the tendency to negate or destroy the same."

Abandonment of duties for long time creates lot many difficulties in any employment, hardly needs to be stated. Therefore, the same becomes intolerable more particularly in the realm of teaching. Abandoners therefore, are not favoured by Courts subject to all just exceptions into which argued case of the Appellant does not fit. Abandonment has to be ascertained or construed on the basis of the delinquent's conduct and other circumstances such as, the length of absence, undesirable consequences of absence, nature of the job,

². (2006) 13 SCC 1.



plausibility of explanation offered, length of service put in, etc. Since, abandonment *per se* causes cessation of employment, the order of removal entered following such abandonment is formal in character. Such an order does not bring about cessation, but only places on record the *factum* of cessation of *vinculum juris*. The umbilical cord thus gets separated by the act of employee and the subsequent order at the hands of employer only recognizes this *factum*. In other words the order is not constitutive of abandonment but only evidentiary. This subtle difference has to be kept in mind by the stake holders while operating with the cases of abandonment. Otherwise, the interest of public service may be prejudiced.

In the above circumstances, this Appeal being thoroughly devoid of merits is liable to be dismissed and accordingly it is, costs having been made easy.

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge