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ORISSA HIGH COURT : CUTTACK

W.P.(C) No.15220 of 2025

In the matter of an Application under Articles 226 & 227 of
the Constitution of India, 1950

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Pranaya Kishore Harichandan
Aged about 62 years
Son of Late Rajendra Kishore Harichandan
At: Basanta Niwas
Nua Sahi, Khan Nagar
P.O.: Arunodaya Market
Badambari
District: Cuttack – 753 012. ... Petitioner

-VERSUS-

- 1.** Union of India
Represented by the Secretary, Revenue
Ministry of Finance, Department of Revenue
North Block, New Delhi – 110 001.
- 2.** The Goods and Service Tax Council
5th Floor, Tower II, Jeevan Bharti Building
Janpath Road, Connaught Place
New Delhi – 110 001.
- 3.** The Search and Selection Committee
Represented by its Member Secretary,
Department of Revenue, North Block
New Delhi – 110 001. ... Opposite Parties.



Advocates appeared in this case:

For the Petitioner : Mr. Susanta Kumar Dash,
Senior Advocate
Assisted by
Mr. Prabin Das, Advocate

For the Opposite Parties : Mr. N. Venkatraman,
Additional Solicitor General of India
Mr. Prasanna Kumar Parhi,
Deputy Solicitor General of India
Mr. Satya Sindhu Kashyap,
Senior Panel Counsel
Mr. Deepak Gochhayat,
Central Government Counsel

P R E S E N T:

**HONOURABLE CHIEF JUSTICE
MR. HARISH TANDON**

AND

**HONOURABLE JUSTICE
MR. MURAHARI SRI RAMAN**

Date of Hearing : 26.06.2025 :: Date of Judgment : 26.06.2025

JUDGMENT

HARISH TANDON, CJ.—

The matter is taken up out of turn on the prayer of the parties citing urgency as one of the Members of the Search-cum-Selection Committee constituted under the Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Services of President and Members)



Rules, 2023 (hereafter be referred to as “the Rules, 2023”) is likely to demit Office on and from 30th June, 2025.

- 2.** An application, I.A. No.10243 of 2025, for vacation/modification and/or recalling of the order dated 30th May, 2025 is taken out; in addition thereto the pleadings have also been exchanged by the parties so that the Court may intend to hear the matter finally, and in such eventuality, the same could be taken into consideration.
- 3.** It is undisputed that the petitioner offered his candidature pursuant to the advertisement issued by the concerned authority for the appointment of the Member in the Central Goods and Services Tax Appellate Tribunal (“GSTAT”, abbreviated) to be constituted under the Central Goods and Services Tax Act, 2017 (be called “CGST Act” for brevity). The Search-*cum*-Selection Committee (for short, “Committee”) was constituted as per provisions of Section 110(4)(b) of the CGST Act consisting of five members which includes the Chairman who would be the Judge of the Supreme Court of India. There is no dispute on the composition of the Search-*cum*-Selection Committee nor on the procedures followed in constituting such Committee, but the dispute hovers around the action of the Committee on the premise of



the violation of the statutory provisions. The entire arguments advanced by the respective parties are founded upon the applicability and the interpretation of Rule 3 of the Rules, 2023 which postulates the exhaustive mechanism for the procedure in appointing the Member of the said GSTAT.

4. It would be apposite to quote Rule 3 of the said Rules, which runs thus:

“3. Selection for posts of President and Members.—

(1) The Committee may cause a vacancy circular to be issued through the Member Secretary, giving details of the posts of Members proposed to be filled up, including the following—

(a) number of existing and anticipated vacancies;

(b) qualifications;

(c) salary and allowances;

(d) format for application; and

(e) last date for filing of applications,

in Form-I after making such modifications as may be deemed fit by the Committee.

(2) The Committee shall scrutinise, or cause to be scrutinised, every application received in



response to the circular, against the qualifications and may shortlist such number of eligible candidates for personal interaction as it may deem fit.

- (3) *For the post of President, the Committee may, either cause a vacancy circular to be issued and call for applications or search for suitable persons eligible for appointment and make an assessment for selection to the post of President.*
- (4) *The Committee shall make its recommendations based on the overall assessment of eligible candidates including assessment through the personal interaction after taking into account the suitability, record of past performance, integrity as well as adjudicating and experience keeping in view the requirements of the Tribunal and shall recommend a panel of two names for every post for which selection is being done in accordance with the provisions of sub-section (6) of Section 110 of the Act.”*

4.1. The conjoint reading of the language employed in the aforementioned Rule leaves no ambiguity that the Committee so constituted may cause a vacancy circular to be issued inviting the application from the intending candidates who are mandatorily required to furnish informations as provided in the prescribed format as per clauses of sub-rule (1) thereof. After receipt of the application from the intending candidates, the



Committee is obligated to scrutinize or cause to be scrutinized each and every application so received and shall shortlist such number of the eligible candidates for personal interaction as it may deem fit.

4.2. Precisely, the arguments are advanced by the respective parties on the interpretation and the manner of the applicability of the aforesaid provision in juxtaposition with the action and/or the procedure adopted by Search-cum-Selection Committee. It is no doubt true that said Committee constituted on 5th July, 2024 after exhausting the procedures as mandated in Rule 3 of the said Rules, 2023 shortlisted the candidates for personal interaction and the petitioner was included as one of the candidates and in fact, appeared for personal interaction.

4.3. The said Committee was reconstituted on 24th April, 2025 as the Chairperson of the earlier constituted Committee showed his inability to continue in such capacity. The reconstituted Committee as the tenet of the said Office Memorandum dated 24th April, 2025 suggests scrutinized the applications upon obtaining the feedback or the opinion from the Intelligence Bureau and selected the candidates for personal interaction. Since the petitioner was kept outside the zone of the said personal interaction by the subsequent reconstituted



Committee, the approach is made to this Court on a solitary premise that the reconstituted Committee cannot adopt a *de novo* exercise, but should continue from the stage at which the said recruitment process was left by the earlier Committee.

4.4. A piquant situation has arisen in the instant case more particularly, on an interpretation of Rule 3 of the said Rules, 2023 which does not contain any express words or stipulations in this regard. Said Rule does not in express word suggest the procedures to be adopted by a reconstituted Search-cum-Selection Committee and, therefore, it invites a solemn duty of the Court to interpret the said provisions in a pragmatic manner.

4.5. It is no longer *res integra* that the interpretative tools in relation to the statutory provisions should be used with an avowed object of upholding the intention of the makers of the law and to make such provision workable as opposed to rendering the said provision otiose or redundant. Harmonious interpretation of the various provisions should be strictly adhered to more particularly, on the basis of the object and purpose for which the said legislation is put in place. Rule 3(1) of the said Rules, 2023 is a repository of the information to be furnished by the intending candidates so as to bring an uniformity in scrutinizing the applications and a



prescribed form is also appended thereto. Sub-rule (2) of Rule 3 provides for a personal interaction by the Committee after the scrutiny of the applications for the shortlisting the candidates. Sub-rule (4) of Rule 3 though applied at a particular stage, yet it imbibes within itself several aspects to be borne in mind before the Committee recommended the name(s) of the candidate to be appointed as a Member.

4.6. There is no quarrel to the proposition of law that mere offering the candidature in a public employment does not create indefeasible or inchoate right into the appointment. Even a person, whose name is included in the select list, cannot claim a vested right on appointment. It is within the prerogative of the Committee or the Appointing Authorities to appoint a person to a post subject to the fulfillment of the various criteria envisaged in the statutory provisions.

5. As discussed hereinbefore, the provisions contained in Rule 3 does not in express terms postulate the role of reconstituted Committee or the procedures to be adopted by it in the event one or more Members of the earlier Committee signify their intention to demit the office. The expression “as it may deem fit” has to be construed in a more pragmatic manner and to be ascribed the meaning in a reasonable way. Such



expression cannot put deterrence to the action to be taken by the statutory Committee nor should the restrictive interpretation be assigned to whittle down the object of constituting the Committee. The Court cannot overlook the onerous duty to be discharged by the member which undertaking the exercise for selection to such an important post, which requires a high degree of integrity, the knowledge and/or experience, as such post ordains the solemn duty of adjudication of the rights of the rival parties within the framework of the statute as well as the Constitutional provisions.

- 5.1. The suitability and integrity is the hallmark in any appointment in a Court or a Tribunal and, therefore, a synergy is required to be created amongst various clauses and sub-rules in Rule 3 of the said Rules, 2023. The Committee comprises of persons holding a high degree of office in Constitutional field, therefore, their actions have to be tested on the anvil of keeping the same in the mind.
- 5.2. The Apex Court in ***Union of India v. Kali Dass Batish*** reported in ***(2006) 1 SCC 779*** observed that once the Constitutional Authority has accepted the report submitted by the Intelligence Bureau (IB) and did not find the candidate to be suitable to hold a highly responsible post, there is no justification in discarding



such opinions expressed by the Constitutional Authority in the following:

“14. Unfortunately, the High Court seems to have proceeded on the footing that the appointment was being made on its own by the Central Government and that there was an irregular procedure followed by the Secretary by giving undue importance to the IB report. It was most irregular on the part of the High Court to have sat in appeal over the issues raised in the IB report and attempted to disprove it by taking affidavits and the oral statement of the Advocate General at the Bar. We strongly disapprove of such action on the part of the High Court, particularly when it was pointed out to the High Court that along with the proposals made by the Government, the Minister of State had specifically directed for submission of the IB report to the Chief Justice of India for seeking his concurrence, and that this was done. We note with regret that the High Court virtually sat in appeal, not only over the decision taken by the Government of India, but also over the decision taken by the Chief Justice of India, which it discarded by a side wind. In our view, the High Court seriously erred in doing so. Even assuming that the Secretary of the department concerned of the Government of India had not apprised himself of all necessary facts, one cannot assume or impute to a high constitutional authority, like the Chief Justice of India, such procedural or substantive error. The argument



made at the Bar that the Chief Justice of India might not have been supplied with the necessary inputs has no merit. If Parliament has reposed faith in the Chief Justice of India as the paterfamilias of the judicial hierarchy in this country, it is not open for anyone to contend that the Chief Justice of India might have given his concurrence without application of mind or without calling for the necessary inputs. The argument, to say the least, deserves summary dismissal.

15. *In this matter, the approach adopted by the Jharkhand High Court commends itself to us. The Jharkhand High Court approached the matter on the principle that judicial review is not available in such a matter. **The Jharkhand High Court also rightly pointed out that mere inclusion of a candidate's name in the selection list gave him no right, and if there was no right, there could be no occasion to maintain a writ petition for enforcement of a non-existing right.***

- 5.3. The Authority has to act within the precincts of the provisions of the law and in the event there is no express fetter put in the Authority if the reconstituted Search-cum-Selection Committee decided to start the process *de novo*, we do not find any statutory obstacles having put in this regard. We have been taken to a confidential reports received by the Committee which cannot be said to be a mere piece of paper and if the Committee decided



to undertake an exercise of scrutinizing the applications and selecting the persons for personal interaction on the basis of inputs received from the Intelligence Bureau (IB), we do not find that there can be any illegality perceived from the action of the Search-cum-Selection Committee.

6. We, therefore, do not find any merit in the instant writ petition, which is accordingly dismissed. All the interlocutory application(s) pending, if any, stands disposed of accordingly. No order as to costs.

**(HARISH TANDON)
CHIEF JUSTICE**

**(MURAHARI SRI RAMAN)
JUDGE**

*High Court of Orissa, Cuttack
The 26th June, 2025//S.K. Guin/PA*

Signature Not Verified

Digitally Signed
Signed by: SUBASH KUMAR GUIN
Designation: Personal Assistant
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 28-Jun-2025 17:31:33

