

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No 154 of 2022

(Arising out of SLP(C) No 15321 of 2020)

State of Orissa & Ors

.... Appellant(s)

Versus

Prasanta Kumar Swain

....Respondent(s)

O R D E R

- 1 Leave granted.
- 2 While considering a challenge by the State of Orissa to the judgment and order dated 14 November 2012 of the Orissa Administrative Tribunal¹ in OA No 163 of 2008, the High Court, by its order dated 14 February 2019, dismissed the petition with the following order:

“Heard learned counsel for the parties.

By way of this writ petition, the petitioners have challenged the judgment and order dated 14.11.2012 passed by the Orissa Administrative Tribunal, Bhubaneswar in OA No. 163 of 2008.

Taking into consideration the opposite party is working for a period of three decades, it will not be appropriate for us to disturb the findings of the Tribunal.

Accordingly, the writ petition stands dismissed.

However, this will not be treated as precedent.”

1 “Tribunal”

- 3 *Ex facie*, there has been no application of mind by the High Court to the grounds of challenge or to the submissions. In fact, the concluding line of the order of the High Court indicates that the decision will not be treated as a precedent. This was an inappropriate manner of disposing of a substantive petition under Article 226 of the Constitution since the High Court is duty bound to apply its mind to whether the judgment of the Tribunal is sustainable on facts and law.
- 4 In the above background, we are constrained to set aside the judgment of the High Court and remit the proceedings back for a fresh decision. Accordingly, the impugned order dated 14 February 2019 is set aside and Writ Petition (C) No 6658 of 2014 is restored to the file of the High Court of Orissa for fresh disposal.
- 5 However, having regard to the fact that the proceedings before the Tribunal were instituted in 2008, we request the High Court to endeavour an expeditious disposal, preferably within a period of three months from the date of receipt of a certified copy of this order.
- 6 The appeal is accordingly disposed of.
- 7 Pending application, if any, stands disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[A S Bopanna]

New Delhi;
January 05, 2022
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ITEM NO.11 Court 4 (Video Conferencing) SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).15321/2020

(Arising out of impugned final judgment and order dated 14-02-2019 in WP(C) No. 6658/2014 passed by the High Court of Orissa at Cuttack)

STATE OF ORISSA & ORS.

Petitioner(s)

VERSUS

PRASANTA KUMAR SWAIN

Respondent(s)

Date : 05-01-2022 This petition was called on for hearing today.

CORAM :

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE A.S. BOPANNA**

For Petitioner(s) Mr. Shibashish Misra, AOR

For Respondent(s) Mr. Sahil Tagotra, AOR
Ms. Sniadha Dash, Adv.

UPON hearing the counsel the Court made the following
O R D E R

- 1 The appeal is disposed of in terms of the signed order.

- 2 Pending application, if any, stands disposed of.

**(SANJAY KUMAR-I)
AR-CUM-PS
(Signed o**