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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 8317 of 2021

Er. Nayadhar Padhial *Petitioner*
Mr. A. K. Biswal, Advocate
-versus-
Union of India and Others *Opp. Parties*

CORAM:
THE CHIEF JUSTICE
JUSTICE B. P. ROUTRAY

Order No.

ORDER
09.04. 2021

2. 1. This matter is taken up by video conferencing mode.
2. This is the second round of litigation at the instance of the present Petitioner who is presently working as Assistant Engineer (Civil), Takatpur, R & B Section, Baripada, District-Mayurbhanj. The Petitioner, who belongs to the Bathudi Tribal Adibasi community, claims that 'Kaai (Kukuti) Chutney (paste)' which is prepared using red ants, mixed with green chilly (Dhanua Lanka) is a potent medicine that can boost the immunity system. He claims that the said 'red ant chutney' can prevent infection through COVID-19 virus.
3. Earlier when his representation to the Council of Scientific & Industrial Research (CSIR) and the Indian Council of Medical Research (ICMR) were not considered, the Petitioner filed W.P.(C) No.28954 of 2020 which was disposed of by this Court by order dated 24th December, 2020 with a direction to the ICMR and CSIR to take a decision on his representation.
4. Thereafter the Petitioner's representations were considered both by the Ministry of Ayush, Government of India as well as

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the CSIR. It has been rejected by a joint communication dated 21st January, 2021 addressed to the Petitioner. It has been stated therein that CSIR currently does not have the required expertise in the domain of entomophagy and therefore would not be able to pursue any action in the matter. As regards the Central Council for Research in Ayurvedic Sciences is concerned, it has noted that it could not find any reference from the classical books of Ayurveda mentioned in the First Schedule of the Drugs and Cosmetics Act, 1940 on the internal use of red ant chutney as claimed by the Petitioner so as to validate it as an Ayurvedic medicine. Therefore, the use of red ant chutney or soup for the beneficial use by the COVID-19 patient is stated to be “out of the purview of Ayurveda drugs as per regulatory provisions of Drugs and Cosmetics Act, 1940 and Rules, 1945.”

5. Learned counsel for the Petitioner insists that both the Ministry of Ayush as well as CSIR ought to have referred the matter to another body of experts. He further submits that this Court should issue notice in the present petition for that purpose.

6. The Court is not inclined to accept the above prayers. These are matters best left for decision by the specialized bodies like CSIR and the Central Council for Research in Ayurvedic Sciences, which themselves have several experts. The Court does not possess the requisite expertise to sit in appeal over the decision of the aforementioned expert bodies who, for reasons stated by them, are not inclined to recommend their universal application for therapeutic or medicinal purposes. Equally, the use of red ant chutney or soup by the tribal communities for medicinal and therapeutic purposes, is based on their traditional

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knowledge systems which the Court is hardly equipped to comment upon.

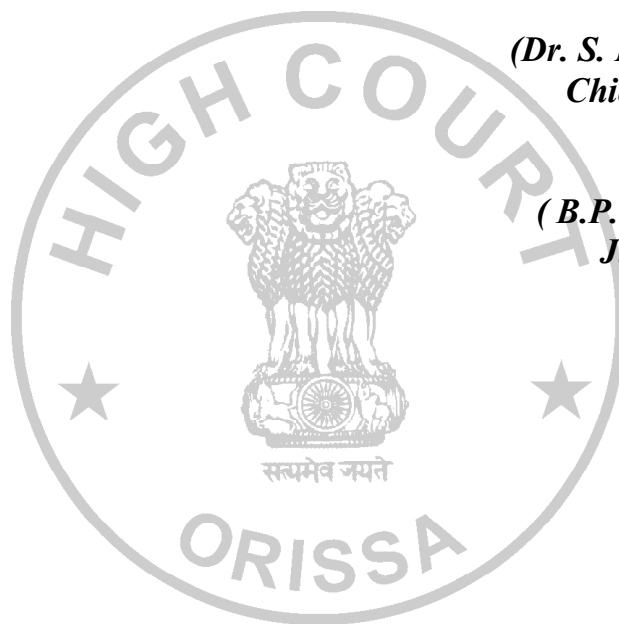
7. The petition is accordingly dismissed.

8. As the restrictions due to the COVID-19 situation are continuing, learned counsel for the parties may utilize a soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed, vide Court's Notice No.4587, dated 25th March, 2020.

(Dr. S. Muralidhar)
Chief Justice

(B.P. Routray)
Judge

M.K.Panda



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