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IN THE HIGH COURT OF ORISSA, CUTTACK

W.P.(C) No.30672 of 2026

(An application Articles 226 and 227 of the Constitution of India)

CNR No.ODHC010735912026

Pankajini Sahu

..... *Petitioner*

-Versus-

*The State of Odisha
and others*

..... *Opposite Parties*

Advocate for the parties

***For Petitioner : Mr. Trilochan Nanda,
Advocate***

***For Opposite Party
Nos.1 to 4 : Mr. Sanjib Kumar Swain,
Addl. Govt. Advocate***

.....

CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing and Judgment: 23.09.2026

S.K. MISHRA, J.

1. Impugned is the order dated 03.09.2026 passed by the Collector & District Magistrate, Bolangir in G.P. Misc. Case No.01 of 2026 as at Annexure-1. Vide the said order, the Petitioner, an elected Ward Member of Ward No.8 of Dunguripali Gram Panchayat, was disqualified to hold the post of Ward Member



U(elected Naib Sarapanch) on the ground that she has begotten her 3rd child after the cut-off date.

2. Since the order dated 03.09.2026 in G.P. Misc. Case No.01 of 2026 is challenged basically on the ground of violation of principle of natural justice, on consent of the learned Counsel for the parties, the writ petition is taken up for hearing and disposal at the stage of admission, based on materials on record.

3. Heard learned Counsel for the Petitioner, so also Mr. Swain, learned A.G.A, who represents the State-Opposite Parties.

4. Learned Counsel for the Petitioner, drawing attention of this Court to the entire order sheets in G.P. Misc. Case No.01 of 2026 submits, the proceeding was initiated at the instance of the present Opposite Party No.5, who made a complaint under Section 25(1)(v) of the Orissa Gram Panchayat Act, 1964, shortly, 'the OGP Act', making an allegation therein that the Petitioner has three children namely, Anisha Sahu, Deepika Sahu and Khitesh Sahu, whose date of births are 23.12.2016, 20.04.2020 and 04.04.2024 respectively. She, having more than two children, is disqualified to be elected or to continue as a Member of the G.P.

4.1. He further submits, G.P. Misc. Case No.01 of 2026 was initiated against the Petitioner under Section 26(2) of the OGP Act



by the Collector and District Magistrate, Balangir. Vide order dated 13.08.2026, the proceeding in G.P. Misc. Case No.01 of 2026 stood adjourned to 03.09.2026 directing the Petitioner to file Objection within seven (7) days. Accordingly, she filed her Objection on 20.08.2026. However, without affording any opportunity, on the very day, i.e., on 03.09.2026, the impugned order was passed by the Collector and District Magistrate, Balangir without hearing the learned Counsel for the Petitioner, so also giving opportunity to the Petitioner to lead evidence to substantiate her stand in the Objection. Merely, based on the documents submitted by the present Opposite Party No.5 obtained under the RTI Act, 2005 from the PIO, ICDS Project, Saintala, so also report of the Superintendent C.H.C, Saintala, wherein, admittedly, there is a discrepancy with regard to the alleged 3rd son's name, which is reflected in the internal page-2 of the impugned order, such illegal order was passed.

4.2. Learned Counsel for the Petitioner, drawing attention of this Court to the para-5 of the Objection dated 20.08.2026 filed before the Opposite Party No.2 in G.P. Misc. Case No.01 of 2026 as at Annexure-3, further submits, in view of the specific stand taken by the Petitioner, she should have been given chance to adduce her evidence, so also other witnesses, including five(5) ward



members, who filed a joint petition on 03.09.2026 in G.P. Misc. Case No.01 of 2026, certified copy of which has been annexed to the writ petition as Annexure-4. Paragraph 5 of the said Objection dated 20.08.2026, being relevant, are reproduced below:

“ 5. That, the truth of the matter is that the husband of the answering opposite party No. 1 is Sri Lochan Sahu who lives with his younger brother Prasanta Sahu. Both the brothers live with their parents. Prasanta Sahu got married on 13.3.203 and the name of his wife if Smt.Pinki. While she was in extreme labour pain, she was taken to the Community Health Centre at Saintala for delivery. She was accompanied by her mother in law Khitisuta Sahu and her own mother who are illiterate persons. Since Lochan Sahu and the answering opposite party No. 1 are prominent persons in the locality, the staff nurse mistook Smt.Pinki to be the wife of Lochan Sahu and accordingly made entries in the records. The woman Smt.Pinki herself was in extreme labour pain and she was not in a position to tell her own name or the name of her husband. In such confused situation, due to mistake and inadvertence by staff nurse, it was wrongly written in the Community Health Centre records that the opposite party No.1 gave birth to a male child. But in fact it was Smt. Pinki who gave birth to a male child on 04.04.2024 at CHC, Saintala and the said child is the off-spring of Prashanta Sahu and not Lochan Sahu. The mistake committed by a staff nurse cannot make the present opposite party No. 1 as the biological mother of the male child bom on 4.4.2024, nor can it be a basis for disqualifying the opposite party No. 1 from her elected post.”

4.3. Learned Counsel for the Petitioner submits, apart from such stand on merit, issue regarding maintainability of the said



proceeding was also raised before the Collector and District Magistrate, Balangir. But it was overlooked, while passing the impugned order.

5. To substantiate his submission, so also the grounds urged in the writ petition, learned Counsel for the Petitioner relies upon the judgments of this Court in **Banamali Panda Vs. State of Orissa and others**, reported in 2004 (II) OLR 515, **Sri Gouranga Chandra Padhi Vs. State of Orissa and others**, reported in 2005 (Supp.) OLR 948, **Smt. Pabani Gajendra Vs. State of Orissa and others**, reported in 2005 (II) OLR 686, **Muktamanjari Sahoo Vs. State of Orissa and others**, reported in 2010 (II) OLR 473.

6. Learned Counsel for the Petitioner, though relied upon several judgments of this Court, as detailed above, relying upon the judgment in **Sri Gouranga Chandra Padhi** (supra), it is contended that , the case of the Petitioner is squarely covered by the said judgment. Relevant portion of the said judgment is reproduced below for ready reference:

*“After hearing the argument of the learned counsel, we are not inclined to agree with the arguments advanced by the learned Addl. Govt. Advocate and learned counsel appearing for the intervenor, inasmuch as **when the public documents coming from the custody of the***



public officers are having the effect of contradicting each other, in such a case, learned Collector should have permitted an opportunity of hearing to the petitioner after providing copies of such documents to him. So also he should have provided him opportunity to produce documents and adduce evidence that he is the father of two children. Under such circumstance, while setting aside the order, Annexure-1, we direct learned Collector, Balasore to undertake the enquiry afresh. If the Intervenor wants to adduce any further evidence, he may be permitted to do so within a period not exceeding two weeks from the date of commencement of fresh enquiry. Evidence, which the Collector refers to or relies upon against the petitioner, in that respect, petitioner be granted an opportunity to cross-examination such persons if he opts for the same and applies in writing. Attendance of such witness be obtained for the purpose of cross-examination expeditiously. After the aforesaid phase of enquiry is completed, petitioner be granted reasonably time of seven days to adduce his evidence and opportunity of cross-examination, if opted for be provided to the intervenor or the Govt. Counsel, as the case may be. Thereafter, the parties be heard and appropriate order be passed by learned Collector expeditiously.

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(Emphasis supplied)



7. Further, relying on the specific averments made in para-10 of the writ petition, learned Counsel for the Petitioner contended that, though the impugned order was passed on 03.09.2026, as required under Section 26(3) of the OGP Act, the said order is yet to be notified on the Notice Board of the Collector and District Magistrate, Balangir.

8. Learned Counsel for the Petitioner further submits, since there is a violation of principle of natural justice and the Collector has not followed the mandate prescribed under Section 26(2) of the OGP Act, the impugned order deserves interference.

9. Per contra, Mr. Swain, learned AGA, who represents the State-Opposite Parties submits, as is revealed from the impugned order dated 03.09.2026, the Petitioner was represented through a lawyer, who appeared before the Collector and District Magistrate, Balangir on 03.09.2026. Her lawyer could have moved an application to permit her to adduce evidence in the said proceeding. Apart from denying the allegations made by the Opposite Party No.5, she did not make any specific prayer in the said Objection to permit her to adduce evidence in the said case, so also did not seek for an opportunity of being heard, as prescribed under Section 26(2) of the OGP Act. Rather, she chose to be represented through an Advocate.



10. Mr. Swain, learned AGA further submits, Section 26(3) of the OGP Act mandates that once an order of disqualification is passed, such decision shall be forthwith published by the Collector on his Notice Board. Hence, it can be well presumed that the said order must have been published in the meantime.

11. So far as the allegations and counter allegations made by the learned Counsel for the parties, which are based on the legal provisions enshrined under Section 26 of the OGP Act, the said provision is reproduced below for ready reference:

“26. Procedure of giving effect to disqualifications-(1) *Whenever it is alleged that any Sarpanch or Naib-Sarpanch or any other member is or has become disqualified or whenever any such person is himself in doubt whether or not he is or has become so disqualified such person or any other member may, and the Sarpanch at the request of the Grama Panchayat shall, apply to the Collector for a decision on the allegation of doubt.*

(2) The Collector may suo motu or on receipt of an application under Sub-section (1), make such enquiry as he considers necessary and after giving the person whose disqualification is in question an opportunity of being heard, determine whether or not such person is or has become disqualified and make an order in that behalf which shall be final and conclusive.



*(3) Where the Collector decides that the Sarpanch, Naib-Sarpanch or any other member is or has become disqualified **such decision shall be forthwith published by him on his notice-board and with effect from the date of such publication the Sarpanch, Naib-Sarpanch or such other member, as the case may be, shall be deemed to have vacated office, and till the date of such publication he shall be entitled to act, as if he was not disqualified.***"

(Emphasis supplied)

12. As is revealed from the order sheets in G.P. Misc. Case No.01 of 2026, the said proceeding was registered on 14.05.2026, on which date, the Collector, Balangir called for reports from the District Panchayat Officer, Balangir and the Block Development Officer, Saitala and ordered to issue notice to the present Petitioner, who was the Opposite Party No.1 in the said proceeding, for her appearance on 11.06.2026 for hearing in the matter. Since on 11.06.2026 the Collector, Balangir was busy in some official assignments, the matter was adjourned to 02.07.2026. On 02.07.2026, District Panchayat Officer was present along with the present Opposite Party No.5, who was the Petitioner in the said case. The present Petitioner (Opposite Party in the said case), appeared through her lawyer and prayed for supply of a copy of the petition filed by the Opposite Party No.5. Accordingly, present Opposite Party No.5 was directed to supply



copy of the documents filed by him to the Petitioner and she was directed to file her Objection, if any, by the next date. The matter was adjourned to 13.08.2026 for hearing. On 13.08.2026, the District Panchayat Officer, Balangir was present. Learned Advocates for the parties were also present on the said date. However, the Advocate for the present Petitioner prayed for an adjournment for filing of the Objection; accordingly, a week's time was allowed to him to file his Objection, if any, with a rider that failing which, the matter shall be heard ex-parte, and the matter stood adjourned to 03.09.2026 for hearing.

12.1. It is further revealed from the record, being so ordered, the Petitioner filed her objection on 20.08.2026 vide Annexure-3. However, on the date fixed for hearing, i.e., on 03.09.2026, a joint petition was filed in G.P. Misc. Case No.01 of 2026 by the 5 Ward Members of the said G.P. namely, Gulekha Sahu, Purnima Rana, Kousalya Majhi, Sukanti Patel and Satyabhama Sahu. The contents of the said joint petition, being relevant, are reproduced below:

“We, the following Ward Members beg to state as follows:

1. That, Sri Markanda Suna came to us sometime in the month of February or March, 2026 and brought an application typed and written in English language.



2. That, the said Markanda Suna told us that all the Ward Members of Dunguripali Grapanchyat are required to sign the same. We believed him in good faith and signed the said paper. It may be noted that the contents of that paper written in English language were not readover and explained to us in our language. None of us are capable of reading, writing or understanding English language. Therefore, we signed the said paper without knowing the contents thereof.

3. That, later on we were informed that the said Markanda Suna has converted that letter into an application on our behalf and has filed the same in this court alleging therein that Smt.Pankajini Sahu, Sarpanch in-charge of Dunguripali Grampanchyat has three children. But the same is not true and the said Sarpanch in-charge Smt.Pankajini Sahu has only two children. All of us are aware of the same.

4. That, we have decided to file this application to bring the truth of the matter into light and for favour of kind information of this court.

Hence necessary orders, as deemed fit in this circumstances, may kindly be passed.”

13. It is the case of the Petitioner that on 03.09.2026, the impugned order was passed by the Collector and District Magistrate, Balangir relying on the Reports, as detailed in the said petition, without hearing the learned Counsel for the present Petitioner, whom she had engaged to defend her case in the said proceeding. Further, since there were two different reports, on



which the Collector and District Magistrate, Balangir relied on the impugned order, he should have made further enquiry before passing of the impugned order, apart from giving her opportunity to adduce evidence to substantiate her stand in the Objection filed by her on 20.08.2026. Further, it is the case of the Petitioner that, the Collector, Balangir neither took in to consideration the said joint petition filed by 5 Ward Members, while passing the impugned order, nor gave an opportunity to the Petitioner to examine the said Ward Members as witnesses from her side, apart from her relatives, whom she intended to produce as witnesses in the said proceeding.

14. After hearing learned Counsel for the parties and going through the materials on record, so also impugned order dated 03.09.2026, this Court is of the *prima facie* view that the Collector and District Magistrate, Balangir passed the impugned order dated 03.09.2026 hastily on the very day, to which it was fixed for hearing vide order dated 13.08.2026, which was the first date after filing of Objection by the Petitioner on 20.08.2026. Though, parties to the said proceeding, including the Petitioner, were represented through lawyers, the impugned order dose not disclose that they were heard by the Collector and District Magistrate, Balangir before passing of the impugned order.



15. Accordingly, the impugned order dated 03.09.2026 as at Annexure-1 is set aside. The matter is remitted back to the Collector and District Magistrate, Balangir to re-adjudicate G.P. Misc. Case No.01 of 2026 giving opportunity of hearing to the parties to the said proceeding, including the Opposite Party No.5, who is the Petitioner in G.P. Misc. Case No.01 of 2026.

16. To avoid delay, the Petitioner is directed to appear before the Collector and District Magistrate, Balangir on 01.10.2026 along with the certified copy of this Judgment, on which date the Collector and District Magistrate, Balangir shall fix a date noticing the Opposite Party No.5, who is the Petitioner in G.P. Misc. Case No.01 of 2026, to remain present on the date fixed, and proceed further in accordance with law.

16.1. This Court is hopeful that the enquiry shall be conducted and completed at the earliest, preferably, by end of December, 2026. The parties are directed not to seek for unnecessary adjournments, and cooperate with the Collector and District Magistrate, Balangir for early disposal of G.P. Misc. Case No.01 of 2026, as observed above.

17. Since the impugned order has been set aside, it is made clear that the Petitioner shall continue as Naib Sarapanch as before, and shall exercise all her power as



such, until a fresh decision is taken by the Collector and District Magistrate, Balangir in G.P. Misc. Case No.01 of 2026 in accordance with law.

18. It is made further clear that this Court has not expressed any opinion on merit of the case of the Petitioner. Hence, it would be open for the Collector and District Magistrate, Balangir to take a decision afresh, based on the pleadings, materials on record and evidences, if any, led by the parties.

19. Accordingly, the writ petition stands disposed of. No order as to costs.

20. I.A. No.18393 of 2026 also stands disposed of accordingly.

Urgent certified copy of this Judgment be granted on proper application as per rules.

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S.K. MISHRA, J.

*Orissa High Court, Cuttack.
Dated, 23rd September, 2026/Kanhu*

Signature Not Verified
Digitally Signed
Signed by: KANHU BEHERA
Designation: JUNIOR STENOGRAPHER
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 25-Sep-2026 19:36:40