

AFR



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 19554 of 2026
CNR No. ODHC010397032026

Eleena Dash **Petitioner**

-Versus-

State of Odisha and others **Opposite Parties**

Advocates appeared in this case:

For Petitioner : Mr. Srinivas Mohanty, Advocate
Ms. K. Patra, Advocate

For Opposite Parties : Mr. Pitambar Acharya,
Advocate General &
Mr. Saswat Das,
Addl. Government Advocate

CORAM:

**HON' BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE CHITTARANJAN DASH**

J U D G M E N T

Date of Hearing & Judgment: 07th September, 2026

HARISH TANDON, CJ.

“It is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public



interest which, upon due scrutiny, are found to promote a personal, business or political agenda.”

*In Tehseen Poonawalla v. Union of India,
(2018) 6 SCC 72*

1. Claiming herself to be a public spirited person and a practising legal professional, the petitioner has filed the instant Public Interest Litigation raising a concern on the descriptive nomenclature in the echelon of governance by a majoritarian elected through a democratic process.

2. The petitioner has frowned upon the designation of Deputy Chief Ministers by placing them into a higher pedestal than the Council of Ministers and extending special privilege in protocol, the precedence and the power to be exercised being violative of Articles 163 and 164 of the Constitution of India.

3. The quintessence of the Public Interest Litigation is laid upon the Odisha Ministers’ Salaries and Allowances (Amendment) Bill, 2025, where the Government intended to revise the salaries and emoluments or perks of the Chief Minister as well as the other Council of Ministers, but subsequently the same was withdrawn. Despite the bill having been withdrawn, the presumptive impression is sought to be projected as if the Deputy Chief



Minister is treated differently than the other Council of Ministers, which runs counter to the spirit and ethos of Articles 163 and 164 of the Constitution of India.

4. The instant Public Interest Litigation petition running in several pages is primarily founded upon a newspaper's report and a perception having derived therefrom that though the post of Deputy Chief Minister being descriptive, yet it enjoins the superior power, privilege, protocol over and above the other Council of Ministers, who have been put into a lower pedestal, thus creating manifest distinction amongst the Council of Ministers. The entire Public Interest Litigation is focused on the intensive theory of governance and the genesis of subversive design by creating a superficial berth raising a concern in the mind of the people of the state. Though the petitioner has admitted that the post of Deputy Chief Minister is mere descriptive and ornamental, yet sought to contend that it aimed to achieve Pseudo-Three-Tier governance model with specific privileges in enjoying the superior protocol over other Council of Ministers. The reliance is heavily placed upon the Warrant of Precedence/ Table of Precedence of Government of India issued by the President's Secretariat on 26th



July, 1979 and by the Government of Odisha on 28th March, 1998, where the post of Deputy Chief Minister is placed on a higher pedestal than other Council of Ministers.

5. A prelude to a genesis of the Table of Precedence embraced in a democratic governance is traced from a colonial era to streamline the ceremonial interactions aiming to avoid any chaotic situation. After independence, the Warrant of Precedence was adopted in the republican framework to preserve the protocol for ceremonial purposes to maintain the administrative familiarity. It does not create any distinction in exercise of powers, substantive hierarchy of authority in a decision making process, but restricted to ceremonial occasions, which would further be fortified from the preamble of the Table of Precedence or Warrant of Precedence issued by the President's Secretariat as well as the State.

6. We are not trammelled with any ambiguity in the descriptive nomenclature as Deputy Chief Minister and the power and the supremacy exercised as the said issue has already been set at rest in the Supreme Court judgment rendered in ***K.M. Sharma v. Shri Devi Lal and others***, reported in AIR 1990 SC 528 wherein it is held the post of a Deputy Chief Minister is akin to a member of



the Council of Minister and does not confer any power of the Chief Minister. Even the oath given to a person as a Deputy Chief Minister which is mere descriptive of a person is not violative of the constitutional provisions and a distinction was sought to be made between a description and the substantial part and once the substantial part is rigorously followed, mere description would not invalidate the oath taken in terms of the constitutional mandate in the following:

“4. Relying on a bench decision of this Court in the case of Virji Ram Sutaria v. Nathalal Premji Bhavadia & Ors., [1969] 2 SCR 627, learned Attorney General further contends that the prescribed oath should be divided into two parts, one which is descriptive and the other which contains the substantial part. And according to him, as long as the substantial part is properly followed, a mere mistake or error in the descriptive part would not vitiate the oath.

5. This Court in the reported decision said:

"In this case, as we have already noted, the essential requirement of Article 173 read with Form VII-A was that the person taking the oath or making the affirmation would bear true faith and allegiance to the Constitution and uphold the sovereignty and integrity of India. The words



which precede this portion are merely descriptive of the person and of his nomination as a candidate."

6. *In view of the clear statement, made by the learned Attorney General that Respondent No. 1 is just a Minister like other members of the Council of Ministers though he has been described as Deputy Prime Minister but the description of him as Deputy Prime Minister does not confer on him any powers of the Prime Minister, along with his other submissions, we think the first contention raised by the petitioner has no force. So far as the second contention is concerned, the petitioner himself does not press it."*

7. The identical issue was raised before the Karnataka High Court in ***Dr. Sekhar S. Iyer v. Chief Secretary, Government of Karnataka and others*** reported in ***ILR 2019 KAR 01*** and holding such Public Interest Litigation to be frivolous and reminding themselves that mere description of any Minister as Deputy Chief Minister does not result in any unconstitutionality it is observed :-

"We are clearly of the view that with the consistent decisions of the Hon'ble Supreme Court as also of different High Courts, it is beyond the pale of doubt that mere description of any Minister in the Council of Ministers as Deputy Chief Minister does not confer the



person concerned with any powers of the Chief Minister and does not result in any unconstitutionality. That being the position, we are further clearly of the view that there had been absolutely no justification for filing this writ petition as a PIL.”

8. There is no scintilla of doubt in our mind on a well-nigh principle enunciated in the above report that the nomenclature as Deputy Chief Minister is mere descriptive and an integral part of the Council of Ministers. The Table of Precedence or the Warrant of Precedence issued by the President’s Secretariat and the State is restricted to ceremonial purposes not touching upon or invading the right, privileges and the powers exercised by the Council of Ministers under Article 163 of the Constitution of India. It has nothing to do with the governance by exercising powers superior to the Council of Ministers, but only in order to ensure the smooth running of the ceremonial functions organised by the Centre and the State.

9. The Public Interest Litigation of such nature should be dealt with great caution and circumspection to curb any oblique motive, the personal gain, the private malice, vested interest and



publicity-seeking. The attractive brand name of the Public Interest Litigation cannot be used as a tool for suspicious products of mischief and the process of the Courts should not be permitted to be misused. The Public Interest Litigation is a judgment remedy where the constitutional courts stand as sentinel to *qui vive* against the oppressed and economically stricken person whose constitutional or other rights have been meddled with in the hands of executives. It is aimed to protect the fundamental rights of the disadvantageous persons and it is a constitutional obligation of the State to fulfil such promises untrammelled with the procedural shackles as the doors of the Court is always open for such person. We need not intend to delve more deep into such aspect as the issue raised in the instant Public Interest Litigation has already set at rest by the Apex Court in holding that the nomenclature of Deputy Chief Minister is mere descriptive and does not over power the substantive part of the constitutional provision.

10. The instant Public Interest Litigation is thus dismissed.

11. We would be failing in our duty in not observing that the instant Public Interest Litigation is filed on a specious ground and sheer wastage of the special remedy in the Public Interest inviting



a cost to be imposed, but bearing in mind that the petitioner is the practising advocate, we leave the matter at this stage with the observation that she will henceforth raise a genuine cause for the disadvantaged person whose fundamental or constitutional rights are infringed and not to indulge in such frivolous litigation.

(Harish Tandon)
Chief Justice

(Chittaranjan Dash)
Judge

Arun Mishra