

IN THE HIGH COURT OF ORISSA AT CUTTACK

SUO MOTU W.P.(C) PIL No.2140 of 2020

and

W.P.(C) No.24740 of 2023

In SUO MOTU W.P.(C) PIL No.2140 of 2020

Registrar (Judicial), Orissa High Court, Cuttack **Petitioner**

Er. N.K. Mohanty, Amicus Curiae

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

Mr. Debasis Nayak, Advocate for CMC

Mr. S.N. Das, Advocate for OWSSB

Mr. P.K. Bhuyan, Advocate for JICA

Mr. P.C. Nayak and Mr. Saroj Padhy, Advocates for
Committee of Advocates

In W.P.(C) No.24740 of 2023

Debasis Rout **Petitioner**

Ms. Padmalaya Mohapatra, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

Mr. Debasis Nayak, Advocate for CMC

Mr. S.N. Das, Advocate for OWSSB

CORAM:

ACTING CHIEF JUSTICE DR. B.R. SARANGI

MR. JUSTICE MURAHARI SRI RAMAN

Order No.

ORDER

22.11.2023

30. 1. This matter is taken up through Hybrid mode.

2. In compliance with the order dated 02.11.2023, an affidavit has been filed by the Cuttack Municipal Corporation through the City Engineer where in para-5, it has been stated as follows:

“5. That post monsoon repair works for filling up pot-holes in roads and repair of culverts and drains undertaken earlier and the details of which were furnished in the affidavit dated 02.11.2023 are almost complete. In the meantime, to make the entire street network under maintenance of the CMC in Cuttack City usable, two separate schemes with so many numbers of projects have been approved by the Hon’ble Chief Minister of Odisha.

(a) The first project envisages three hundred and sixty seven (367) number of works (i.e. 164 number of works under City Division-I, CMC and 203 number of works under City Division-II, CMC) for construction of paver block roads under the Mukhya Mantri Karma-tatpara Abhiyaan (MUKTA) Scheme at a cost of Rs.35,50,74,154/- (Thirty Five Crores Fifty Lakhs Seventy Four thousand and One Hundred and Fifty Four Rupees) in a complete makeover of all roads in the core Cuttack City Area. The scheme is being executed through women Mission Shakti Groups, i.e. women Self-Help Groups (SHGs) under the supervision of CMC. Out of the said Three hundred and sixty seven (367) number of works, 110 (One Hundred and Ten) number of works have already commenced and are scheduled for completion by 31.12.2023. Work orders for 120 (One Hundred and Twenty) number of works are being issued. These 120 (One Hundred and Twenty) number of works will be started very soon and completed by 31.01.2014. The balance 137 (One Hundred and Thirty seven) numbers of works are under Administrative Approval stage. Steps are being taken to issue Work Orders for these works by 20.12.2023 and to complete by 31.03.2014. The list of all the said three hundred and sixty seven (367) works is annexed herewith as Annexure-U/2.

(b) The second project envisages sixty (60) number of works for construction of paver block roads to replace

the existing Kutchha and broken roads in the outlying wards of the CMC area including Sikharpur, Jagatpur, Nuabazar, etc. One (1) number of work out of sixty (60) is to be undertaken from Ranihat Chhaka to Emporium Lane in Ward No.32. The estimated cost of these sixty (60) number of works amounts to Rs.18,44,69,200/- (Eighteen Crores Forty-Four Lakhs Sixty-Nine thousand and Two hundred Rupees) is Administratively approved and all these works are now under tender process. The said works will begin by 31.12.2023 after observing all codal provisions and will be completed in a phased manner by 30.04.2023. A detailed list of all the said works are annexed herewith as Annexure-V/2.”

3. A list has been enclosed as Annexure-U/2 with regard to the approved project by HCM for concrete paver Block Roads under MUKTA Scheme of City Division-I, CMC as on 21.11.2023.

4. Though such an elaborate list has been produced before us, but on an inquiry, this Court observes that the work has not been done in proper manner and progress is not sufficient. Only the maintenance work has been done and when this question was confronted to Mr. Debasis Nayak, learned counsel appearing for the CMC, it is contended that the Engineers have expressed that instead of repair work, reconstruction work should have been undertaken. If that be so, then in that case, the Engineers should point out the places where it requires reconstruction and where it requires repair. Unnecessarily, the Government money should not be wasted in a manner it is spent as projected in the list today.

5. Therefore, we direct the Advocates' Committee to examine each and every project as mentioned in Annexure-U/2 and also give their suggestions specifying the requirement of reconstruction work at different places.

6. Er. N.K. Mohanty, learned Amicus Curiae has filed a status report on Box drain (JICA Works) as on 21.11.2023. In paragraph-3 of such report, it has been stated as follows:

“3. As per information of WATCO, Cost of Box-Drain of 810 meters comes to Rs.20.44 Crore as detailed below:-

i. Rs. 9.96 Crores of reduction towards Road and allied infrastructure over the road from Ch 5890 to 6700.

ii. Rs. 8.27 Crores of reduction towards descopeing of sand/stone piling reduction in excavation depth and disposal of earth.

iii. Rs. 2.21 Crores reduction due to no requirement of flow control arrangement manhole covers, ventilating shaft and other Box-Drain related works.”

7. This Court is not concerned about saving of any money rather is more concerned about the completion of work in an effective and appropriate manner. As such, as has been undertaken the work is to be completed by 31.03.2024. They have to stick to the timeline given by them as undertaken earlier.

8. In paragraph-5 of the affidavit filed by the Additional Government Advocate and sworn by Sri Pravash Kumar Majhi, the

Superintending Engineer, Cuttack R & B Division-I, Cuttack, it has been stated as under:

“5. That so far as 3 nos. of PWD roads as referred in para-6 of the earlier affidavit filed by me, repair work is almost completed save and except some stretches due to certain obstacles.”

9. The statement made by way of an affidavit is not correct as has been observed by the Court that in the name of repair work, they have done some work which is not acceptable at all and the condition of the road till now has not come to proper stage. When this fact was confronted to the Superintending Engineer, who is present in the Court, he conceded that some places require reconstruction and some place require repair. But, they have undertaken repair works only. This Court does not accept such type of evasive statement made by the Superintending Engineer, rather, this Court observed that whatever step necessary for the betterment of the road condition of Cuttack city that has to be done by the Government in compliance with the provisions of law.

10. An affidavit has also been filed by Sri Anup Kumar Behera, the Superintending Engineer, Cuttack R & B Division-II, Cuttack indicating that total 27 roads are maintained by Cuttack R & B Division No.II in Sadar area of Cuttack City along with partly of

Cuttack-Choudwar. After the order of this Court, the Cuttack R & B Division No.II substantially progressed with repairing of all these PWD roads wherever the condition of the roads were not good. Even this statement of the Superintending Engineer is not acceptable as at most of the places, the repair work has not been undertaken properly and the affidavit so filed appears to be an eyewash and therefore, the same is not accepted.

11. At any rate, since the authorities are aware of the position and willing to do the work as per the requirement of Cuttack city, they are granted two weeks' time to proceed with the work and appraise the progress by an affidavit and, henceforth, if any false affidavit is filed, this Court will take serious view. If necessary, the Court will direct for lodging criminal cases against such Officers. Therefore, correct position must be placed by way of affidavit before this Court by the next date.

12. Call this matter on 06.12.2023.

(DR. B.R. SARANGI)
ACTING CHIEF JUSTICE

(M.S. RAMAN)
JUDGE

S.K. Guin/PA