



IN THE HIGH COURT OF ORISSA AT CUTTACK

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

Registrar (Judicial), Orissa Petitioner
High Court, Cuttack

Er. N.K. Mohanty, Amicus Curiae

-versus-

State of Odisha & others Opp. Parties

*Mr. Debakanta Mohanty, AGA for
R & B Department*

*Mr. Debasis Nayak-A, Advocate
for CMC*

*Mr. Sailaza Nandan Das,
Advocate for Odisha Water
Supply & Sewerage Board*

*Mr. P.K. Bhuyan, Advocate for
Water Corporation of Odisha
(WATCO)*

*Mr. Satyabrata Mohanty-1,
Advocate (Intervener)*

*Mr. L.K. Moharana, Advocate
(TPCODL)*

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

Mr. Sreejit Mohanty, Advocate

*Mr. Sukanta Kumar Dalei,
Advocate*

CORAM:

JUSTICE S.K. SAHOO

JUSTICE V. NARASINGH



ORDER
16.05.2024

Order No.

50.

This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

**SELECTION OF ADVOCATES OF DIFFERENT
WARDS TO ASSIST ADVOCATES COMMITTEE:**

On 09.05.2024, when the matter was taken up, Mr. B.K. Dash, learned President of the Orissa High Court Bar Association and Member of the Advocates' Committee while furnishing the names of some Advocates in a list submitted that he would tender the names of the Advocates for the remaining wards, who are interested to assist the Advocates' Committee.

Mr. B.K. Dash, learned President submits such process is underway and he would furnish the list of Advocates, immediately after the ensuing summer vacation.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

OPEN DRAIN

51.

As per the order dated 09.05.2024, Mr. B.K. Dash, learned President of the Orissa High Court Bar



Association has furnished the name of an expert, who has been nominated by the General Manager (Admn.) & Special Secretary to Government, H & U.D. Department and the expert's name is Sri Sarat Kumar Nayak, Chief Consultant/Civil Engg. II. The memo along with the name of the expert is taken on record.

So far as the expert from the I.I.T., Bhubaneswar is concerned, whose name is to be proposed by the Director of I.I.T., Bhubaneswar, learned counsel for the State submits that he shall furnish the name tomorrow (17.05.2024).

The matter will be taken up tomorrow (17.05.2024) at 1.00 p.m.

**(S.K. Sahoo)
Judge**

**(V. Narasingh)
Judge**

52.

CONNECTING DRAINS TO BOX DRAIN/MAIN DRAIN

As per the order dated 09.05.2024, wherein under the heading of 'CONNECTING DRAINS TO BOX DRAIN/MAIN DRAIN', we directed that if there is any encroachment in and around of any box drain/open



drain areas or surface drain areas, the same shall be removed by the C.M.C. authorities and if any further encroachment takes place in that area, the Inspector in-charge of the concerned police station shall be held accountable for the same. We observed that the I.I.C. shall be vigilant and ensure that there is no further encroachment so that the effective desilting can be made. We directed that the D.C.P., Cuttack shall circulate the order to all the Inspector in-charge of different police stations of Cuttack Town for compliance and to submit a copy of such order to this Court.

Today, learned counsel appearing for C.M.C. has produced before us the order dated 15.05.2024 passed by the D.C.P. -cum- D.I.G. of Police, Cuttack, wherein all the Inspectors in-charge of Cuttack Urban Police District (UPD) have been directed to take immediate and effective steps for strict implementation of this Court's order in true letter and spirit and to render police assistance to the C.M.C. authorities as and when required on receipt of requisition from them for removal of unauthorized encroachment in and around of any box drain/open drain or surface drain areas in their respective jurisdictional police stations and they have been further directed to keep a constant vigil on the construction work and to take necessary legal action as and when required and when any report is



received from the concerned authorities against the illegal encroachers, if they have re-encroached the area cleared of encroachment by the C.M.C. authorities, so that the effective desilting can be undertaken smoothly. The order passed by the D.C.P. of police is taken on record.

This Court after hearing the Advocates Committee and taking into account the traffic congestion in different areas of Cuttack town like O.M.P. Square to Nuabazar, Link Road to Badambadi and various sections of C.D.A. on account of unauthorized encroachments on footpaths, street or pavements, observes that these are for public use intended to serve the convenience of general public and not meant for private use. Its use for private purpose frustrates the very object for which those are earmarked. Such facility, which goes a long way in ensuring the safety of the pedestrians, cannot be set at naught by allowing encroachments to be made on the pavements.

Accordingly, we direct the C.M.C. authorities that wherever there is any encroachment in any manner on footpaths, street or pavements, the same shall be immediately removed. The local I.I.C. shall assist the C.M.C. authorities in this regard. The photographs of the encroachment-free area shall be kept on record and the copy of the same be handed over to the I.I.C. so



that the I.I.C. shall remain vigilant and ensure that there is no further encroachment in such areas.

The learned counsel appearing for C.M.C., Cuttack has pointed out that in different areas of Cuttack Town, parking areas have been specified but the space in those areas are not adequate and the C.M.C. shall identify other available spaces exclusively for parking purpose and the list of such spaces shall be furnished to this Court on the next date.

List this matter after ensuing summer vacation.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

MOSQUITO ERADICATION PROBLEM

53.

On 09.05.2024, when the matter was taken up, we directed for effective monitoring of mosquitoes menace, which is a persistent all-season civil problem of Cuttack city, the supervisors of each Ward shall upload the data relating to sprinkling of Mosquito Larvicide Oil and Temephos Larvicide in their respective Wards in the Central Data Base on daily basis and mosquito density of each area has to be measured after such sprinkling on a weekly basis. We further directed



that the Commissioner, Cuttack Municipal Corporation to instruct the Supervisors to ensure that bush-cutting in different Wards to be done regularly and such data be uploaded in the Central Data Base of the C.M.C.

When we made a query to the learned counsel appearing for the C.M.C., Cuttack regarding the steps taken in that regard, learned counsel submitted that the supervisors are to be trained for such purpose so that they can effectively carry out the order which has been passed on 09.05.2024. He further submitted that when the matter would be taken up after ensuing summer vacation, he shall apprise the Court about the details of the works undertaken in different wards of Cuttack city in that regard.

Free copy of this order be handed over to the learned counsel for the parties for compliance.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

WATER LOGGING

54. Mr. Bijoy Kumar Dash, learned President of the High Court Bar Association has filed a memo with the news clippings from local daily newspapers relating to



water logging problem, which occurred due to one hour rain last week in Cuttack City. The memo with newspaper clippings are taken on record.

It is stated at the Bar that for more than twenty four hours, there was water logging in some of the areas like Badambadi, Roxy Lane, Pithapur, Rajabagicha, Jhanjir Mangala, Patapola, Friends Colony, Ganga Mandir, New Rausa Patana, Meria Bazar, Sutahat, Odia Bazar, Balu Bazar, Kazi Bazar, Kesharpur, Gomandia, Saanta Sahi, Tulasipur, Sidheswar Sahi, Kanika Chawk, Rover Street, Khatbin Sahi, Jobra, Jagatpur, Khannagar, Aparnanagar, Nuabazar, Mahanadi Vihar, Kathagada Sahi, C.D.A. Sector-5 and Sector-6.

Learned counsel for the C.M.C. has filed an affidavit of City Engineer Atanu Kumar Samanta wherein in paragraph-7, it has been mentioned that all conservancy agencies have been instructed to start massive drain desilting drive from 25th of April to 10th of June 2024 and to complete one round massive desilting within the C.M.C. area.

When we made a query to the learned counsel for the C.M.C. that whether the problem of water logging in the C.M.C. area would be solved even if there is massive desilting, he answered in negative. C.M.C. should evolve an action plan to address this issue on a



permanent basis instead of resorting to adhoc measures. It is the general consensus at the bar that further steps like sufficient water drainage pumps and man power should be kept ready in each ward to tackle the problems which is likely to happen in the upcoming monsoon.

Learned counsel for the C.M.C. is called upon to furnish the details of the steps taken for each ward of Cuttack City on the next date by way of affidavit.

Some of the learned counsel stated that they have proposals/plans to tackle the water logging problem effectively.

Let the learned counsel give all such proposals/plans to the Advocates' Committee in writing, who in turn shall scrutinize the same with the aid of Amicus Curiae Mr. Mohanty and the relevant proposals shall be submitted to this Court with a memo, serving copies thereof on the learned counsel for the C.M.C. The same shall be considered on the next sitting.

**(S.K. Sahoo)
Judge**

**(V. Narasingh)
Judge**

I.A. No.6327 of 2024

55. This application has been filed for appropriate



order for directing the Commissioner, Cuttack Municipal Corporation to make an enquiry regarding the exit point of drainage of Vinayak Vihar Colony of Ward No.52, Darkhapatna.

A copy of the interim application has already been furnished to Mr. Nayak, learned counsel for the C.M.C., who seeks some time to obtain instruction regarding the same.

List this matter after the ensuing Summer Vacation.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

I.A. No.424 of 2024

56. This is an application for appropriate order.

On 02.05.2024, when the matter was taken up, we asked the C.E.O., WATCO to file an affidavit on the interim application particularly with respect to paragraph nos.7 and 10.

An affidavit has been filed by the C.E.O. of WATCO in that respect.

However, learned counsel for the C.M.C. submitted that he would apprise this Court tomorrow regarding the steps which are to be taken up by the



C.M.C. immediately to address the issue of water logging, which has been highlighted in the interim application.

After going through the affidavit filed by the Chief Executive Officer, WATCO, we find that a Technical Committee meeting was held on 04.03.2023 and some decisions were taken.

The intervenor submitted that no further steps have been taken to comply the decisions taken.

Let a further affidavit be filed by the C.E.O., WATCO by the next sitting after the ensuing Summer Vacation as to what further steps have been taken after the decision was taken in the Technical Committee meeting to mitigate the grievance of the intervenor, which has been highlighted in the interim application and such affidavit should also indicate the time frame within which the project work shall be completed.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge