



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. Jyoti Prakash Patnaik,
Government Advocate 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
10.07.2024

Order No.

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

OPEN DRAIN

On 27.06.2024, when the learned Government Advocate produced the report of the Expert Committee on Technical Feasibility of Construction of Box Drain from Chhatra Bazar to Matru Bhawan without affecting the existing buildings situated in the close vicinity of the drain, we directed the copy of the Expert Committee's report be furnished to all the stakeholders including the learned Amicus Curiae to have their say vis-à-vis such report and posted the case to today.

No one has filed any response on the report, however time is sought for from some stakeholders to file their response.

Put up this matter on 25.07.2024.

Response, if any, be served on the learned counsel for the State in advance.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge



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10.07.2024

WATER LOGGING

By order dated 27.06.2024, we required the presence of the Commissioner, Cuttack Municipal Corporation and the City Engineer today.

Mr. Bijay Kumar Dash, Commissioner, C.M.C. and Mr. Atanu Kumar Samanta, City Engineer, C.M.C. are present.

On 21.06.2024, Mr. G. Mathi Vathanan, Principal Secretary to Government, Department of Housing and Urban Development so also Mr. Bijay Kumar Dash, Commissioner, C.M.C. appeared through virtual mode and after having interaction with him, Mr. Vathanan assured this Court that he would pass necessary instruction to see that different problems, which are arising on account of water logging may be for non-working out of the contingency plan is addressed to in an effective manner and efficient officers would be there to look into these issues under the guidance of the C.M.C. Commissioner.

On 27.06.2024, Mr. Nayak, learned counsel for the C.M.C. placed before us the order passed by Mr. Vathanan, dated 21.06.2024 under the heading of maintenance of drainage system and prevention of



water logging in Cuttack Municipal areas. He also informed us that a review meeting was held on 21.06.2024 after receipt of such order and placed the minutes of that meeting.

Prior to that date, a contingency plan was produced before us by the learned counsel for the C.M.C. wherein different locations of Cuttack City were indicated where the pumps have been placed for draining out water and who are the operators of those pumps. We observed that the log books are to be maintained relating to the hours of functioning of the pumps with all the attendant details

Mr. Dash, learned President of the High Court Bar Association on 27.06.2024 brought to our notice different news clippings of the local dally newspapers relating to water logging situation of various places of Cuttack City, which arose on account of rain on 25.06.2024.

We wanted to know from the Commissioner, C.M.C. so also the City Engineer when the pumps were available in those areas and the operators were also there on 25.06.2024, how there was recurrence of water logging and we also wanted the City Engineer to file an affidavit relating to the functioning of the pumps on 25.06.2024 and whether any person has been held accountable for the



situation, which arose on that day.

While passing such order of personal appearance, in view of the materials placed before us we were under an impression that either **(i)** the pumps were not in working condition; **(ii)** even if those were in working condition, perhaps no one was there on that particular day to operate it; **(iii)** the pumps were not operated at right time for which the problem arose; **(iv)** the pumps could not be made operational for some other reason; **(v)** even if the pumps were operated, water could not be drained out because of failure of planning regarding drainage of water from the specific areas.

Mr. Atanu Kumar Samanta, City Engineer, C.M.C. has filed an affidavit today in compliance of the order dated 27.06.2024 wherein it is mentioned as follows:

"3..... However, at the relevant time on 25.06.2024, it was observed by the CMC authority that some of the Pump Drivers had not performed there sincerely. As the pump drivers are engaged through outsourcing agencies, the said agencies were directed to give details of engagement of pump drivers on that particular day. After obtaining details,



immediate action was taken on all those responsible including the agencies, work sarkars and the junior engineers. Copies of the Show Cause Notices issued to the concerned Junior Engineer, concerned Work Sarkars and disengagement order issued to the Pump Drivers are annexed herewith as Annexure-S/2-Series. At present, all the pumps installed in the above areas are functional for smooth disposal of rain and drain water into the Box Drain.”

A public servant should not make an attempt to shy away from his responsibility by shifting the same to another. It is not at all a healthy sign for a responsible officer in a democratic set up. We are distressed to note that citizens suffered a lot on account of lackadaisical attitude of the public servants. We expect the Commissioner present in Court to address the issue in an effective manner so as to arrest recurrence of such negligence in future.

On 27.06.2024, learned President of the Orissa High Court Bar Association filed a memo relating to the temporary measures required to be undertaken for the monsoon season and it was mentioned therein that three 60 HP power pumps are required



to be installed near junction points between BSWC and box drain at Kesarpur for discharge of drain water from the BSWC to box drain.

We asked learned counsel for the C.M.C. to apprise us about the feasibility of working out the suggestions given by the learned President.

In the affidavit filed by the City Engineer, it is mentioned as follows:

"5..... As far as the suggestion relating to installation of 03 numbers of 60 HP pumps, (i.e. 60 HP X 3 = 180 HP) is concerned, for their installation, the following are needed, (i) Mini covered Pumping Station, (ii) 250 KVA Transformer, (iii) 250 KVA Diesel Generator Set (during power cut time), (iv) 24X7 Operators, (v) Coffor Dam, (vi) Delivery and Suction Pipe line. Since at present CMC does not have 60 HP Pumps, it will take 45-60 days are required for procurement of 60 HP Pumps and above mentioned related accessories and arrangements through e-tender process and all other formal procedures. Therefore, at present, CMC has installed 04 numbers of VOLVO Pumps (4 X @ 22



HP Capacity = 88 HP Capacity) at Rausapatana (near the residence of Hon'ble Justice Biswajit Mohany). Similarly, Pumps are installed (i) at Pithapur Pokhari (14HP) (ii) backside of JCC Club (5 HP), (iii) Nolia Sahi (5HP), (iv) near Mihir Mallick Res. (5HP) and (v) Telugu Basti (5HP) for dewatering of rain water."

The learned President of the Orissa High Court Bar Association submitted that more number of VOLVO pumps are required at Rausapatna as even on account of light spell of showers, the area becomes waterlogged and the residents are not able to move out of their homes and forced to remain indoors as water does not recede early. He also filed some newspaper clippings, which are taken on record. In one of the newspaper clippings published in "The Samaj" dated 09.07.2024 under the caption of "Samanya Barsha Re Sahara Bhasuchi", it is mentioned that though pumps have been installed, but there is no oil to operate the same.

Mr. Nayak, learned counsel for the C.M.C. has assured this Court to look into this aspect and install more numbers of VOLVO pumps at Rausapatna.



The personal appearance of Mr. Bijay Kumar Dash, C.M.C., Commissioner and Mr. Atanu Kumar Samanta, City Engineer, C.M.C. is dispensed with for the time being.

Put up this matter on 25.07.2024.

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

**(V. Narasingh)
Judge**

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10.07.2024

During the course of deliberation this Court was informed that control room numbers have been provided to enable the authorities to respond to the water logging with alacrity.

The Commissioner, C.M.C., Mr. Bijay Kumar Dash assures that due publicity has been given of such facility so that the same can be utilized by the citizens in distress on account of water logging in their areas.

This Court directs that a responsible officer shall be kept in charge of such control room/call centre and the record shall be maintained as to the number



of calls received and redressed by taking necessary measures.

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

**(V. Narasingh)
Judge**

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10.07.2024

Paragraph-4 of the affidavit filed today by the C.M.C. in terms of the order dated 27.06.2024 reads as under:-

"4. That, the deponent humbly begs to submit the following facts for kind appraisal of the Hon'ble Court. As per topography, Cuttack is situated in between and below the bed level of the two rivers, i.e. River Mahanadi & River Kathajodi. Hence, in certain low-lying areas of the City, as the water from the drains itself takes some time to discharge into the larger water bodies, dewatering from the drains takes up to 02 to 03 hours. Similarly, in some other vulnerable locations it takes up to 5 hours for complete drainage of rainwater. Hence, even if the pumps run at full capacity to pump the accumulated water out of the said water-logged areas, until the drains have discharged water that is already flowing through them, water level will not immediately go down. It will take 2-3



hours in some and about 4-5 hours in other low-lying locations for the water level to go down after the rain has stopped. In all other locations, accumulated rainwater is cleared immediately after stoppage of rain.”

The C.M.C. shall file an affidavit stating the identified areas where such water logging is taking place and the remedial measures being taken for redressal.

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

**(V. Narasingh)
Judge**

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10.07.2024

KRUSHAK BAZAR (WARD 7)

A news item was produced before us which was published in “The Samaj” dated 8th July 2024 under the caption of “*Samanya Barsha Re Narakhara*” in which it is stated that Krushak Bazaar, spreading across Satichaura river embankment to Petanala, is one of the largest vegetable and fish markets of the city which comes under Ward-7. According to reports, almost 300 vendors carry on business in this place. Though they pay fees to the C.M.C. per



month, they do not get the minimum facility which should be provided by the municipal body. Though garbage is cleaned by the CMC, but the same is not taken away from the spot rather kept at a corner of the market. Such accumulated garbage gets decomposed and make the surrounding places malodorous. Though drainage system is in place, but the same is no more functional leading to water logging. Above all, accumulation of rain-water in large potholes causes muddy patches. The fish market is functioning under uninhabitable environment with garbage all around. The recalcitrant behaviour shown by the CMC has been causing great inconvenience to the general public during rainy seasons for years together.

Let the Health Officer, Cuttack Municipal Corporation file an affidavit on this aspect and immediate steps shall be taken to address the inconvenience caused to the vendors so also to the general public visiting Krushak Bazar.

Put up this matter on 25.07.2024.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge



ILLEGAL ENCROACHMENT BY VEGETABLE VENDORS

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10.07.2024

A news item was produced before us which was published in "The Samaj" dated 8th July 2024 under the caption of "*Rasta Upare Pariba Byabasaya, Jatayatara Asubidha*" in which it is stated that illegal encroachments over the road by vegetable vendors have caused major traffic logjam issues from Chatra Bazaar to National Highway via Taladanda Canal. Though the Cuttack Municipal Corporation (CMC) as well as the Police administration had taken steps to remove such encroachments, but the vendors are re-encroaching the spaces over the public road. It is further stated that the road widening project is underway between Chatra Bazaar and the National Highway and Box-Drain project has also been initiated between Chatra Bazaar and Bisinabar. The C.M.C. had also removed illegal shops and cabins erected over the road. However, the vendors have again put up their shops illegally and they are also sitting over the public road causing inconvenience to the public on account of such illegal encroachments and obstructions over the public road. Moreover, the



customers are also parking their vehicles on the road for making purchases from the vendors which is causing severe traffic issues.

We passed an order on 21.06.2024 that if after the areas are made encroachment free by the C.M.C. authorities, the I.I.C. of the concerned police stations are to remain vigilant to ensure that there is no further encroachment in those areas and if there is any re-encroachment and the C.M.C. authorities would be required to take steps again for removal of encroachment, this Court would consider to direct recovery of the amount spent by the C.M.C. from the errant I.I.C. As per our aforesaid order, the D.C.P., Cuttack circulated the same to the I.I.C. of different police stations of Cuttack Town which was produced before us on 27.06.2024.

The D.C.P., Cuttack shall file an affidavit as to how in spite of his instruction issued to all the I.I.Cs. of Cuttack City including I.I.C. of Traffic P.S., Cuttack, the vegetable vendors are allowed to make encroachments and obstructions over the public roads in the places mentioned in the aforesaid news item and what action has been taken against the errant I.I.Cs.



List this matter on 25.07.2024.

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

**(V. Narasingh)
Judge**

ABSENCE OF STREET LIGHT AND TRAFFIC CONTROL IN THE ROAD FROM JOBRA UP TO BIRIBATI TARINI TEMPLE

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10.07.2024

Attention was drawn to this Court by the Advocate's Committee that in order to facilitate communication to the proposed expanded campus of S.C.B. Medical College and Hospital, Cuttack, renovation and beautification of Taladanda Canal and widening of the road is being carried out from Jobra up to Biribati Tarini Temple but in a major portion of the road, there is no street light and there is also no traffic police posted to control the movement of the vehicles.

The learned counsel for the C.M.C. so also the State shall apprise this Court on the next date about the steps taken in that regard.

To effectively address the issue, Secretary, Cuttack Development Authority shall remain present on the next date.



Put up this matter on 25.07.2024.

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

**(V. Narasingh)
Judge**

CREATION OF DEDICATED WEBSITE BY C.M.C.

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10.07.2024

When this Bench made a query from Mr. Bijay Kumar Dash, Commissioner, C.M.C. as to whether there is any dedicated website of C.M.C. wherein data are made available to the public as to what are the works to be done in each of the 59 wards of Cuttack City, the status of such work, the time required to complete such work and the officer of C.M.C. in charge of executing such work, the Commissioner answered in negative but assured this Court to create such a website for the public.

The public has a right to know about the progress of different work undertaken by the C.M.C.

After creation of the website, on daily basis, it is required to be updated and all the data relating to the works to be done in each ward, the status of the work, the expected period of completion and the person in charge of executing such work should be



uploaded for the sake of transparency. Public should also be given opportunity to indicate what further works are required to be undertaken in their respective wards.

The learned counsel for the C.M.C. shall apprise this Court about the creation of dedicated website on the next date which fixed to 25.07.2024.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

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10.07.2024

I.A. No.8773 of 2024

This I.A. has been filed by the Interveners to implead them as proper parties seeking a direction to the C.M.C. for construction of road including removal of water logging problem on the road i.e. from plot No. 7MC/56, Sector-7 to plot No. 7MC/63, Sector-7 C.D.A in Ward No.5 by Commissioner, Cuttack Municipal Corporation and City Engineer, Cuttack Municipal Corporation as the residents of the said area and public in general are facing many problems while using the road.

Copy of the I.A. has been served on the learned



counsel for the C.M.C. in Court today who seeks some time to obtain instruction in the matter.

List this matter on 25.07.2024.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

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