



IN THE HIGH COURT OF ORISSA AT CUTTACK

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 & others Opp. Parties

*Mr. Debasis Nayak-A,
Addl. Govt. Advocate &
Advocate for CMC*

*Mr. Partha Sarathi Nayak,
Addl. Govt. Advocate*

*Mr. Bijay Kumar Dash, Advocate
President of Orissa High Court
Bar Association*

CORAM:

JUSTICE S.K. SAHOO

JUSTICE V. NARASINGH

ORDER

07.11.2024

Order No.

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

BALIJATRA 2024, CUTTACK

199.
07.11.2024

As per order no.188 dated 30.10.2024, the authorities who are entrusted to make security arrangement, crowd management, vehicular traffic



management, controlling noise and dust pollution, checking of food quality, maintenance of cleanliness, uninterrupted pure drinking water supply so also electricity supply, provisions for fire fighting units in case of emergency, were directed to file affidavits regarding their planning and its execution.

It was further directed in the aforesaid order dated 30.10.2024 that immediate steps shall be taken for repairing the pavements and road dividers, beautification of the approach road to Balijatra and the surroundings particularly from Mahanadi Barrage, Jobra to Chahata Ghat, cutting of bushes, planting of trees etc. on the road side.

In view of the suggestions given by the Advocates' Committee, it was also directed that the Collector, Cuttack shall convene a meeting of different authorities who are involved in organizing Balijatra including D.C.P., Cuttack, C.M.C. Commissioner for a discussion regarding feasibility of shifting the stalls of Upper Balijatra Padia to Lower Balijatra Padia and for utilizing the Upper Balijatra Padia as parking space for the vehicles.

Summary of affidavit filed by Collector -cum- District Magistrate, Cuttack:

In pursuance of the order dated 30.10.2024, Sri Dattatraya Bhausahab Shinde, I.A.S., Collector



-cum- District Magistrate, Cuttack has filed an affidavit stating therein that since the very inception of historic Balijatra Utsav, it is being organized in Upper Balijatra Ground over plot no.113, Khata No.23 measuring an area Ac.8.5270 dec. of Mouza-Cuttack Sahar, Unit-9, Barabati Killa and later this was extended and expanded to lower Balijatra Ground to celebrate the Utsav with grandiose as per the evolving requirements of the time.

In compliance with the order dated 30.10.2024 of this Court, a meeting was held under the chairmanship of Collector, Cuttack on 04.11.2024 to deliberate upon the feasibility of shifting the stalls and other arrangements already made over the Upper Balijatra Ground to Lower Balijatra Ground and utilizing the Upper Balijatra Ground as a space for parking of the vehicles. The meeting was attended by D.C.P., Cuttack and Commissioner, C.M.C. and other officers of different departments associated with its organizations.

In the said meeting, the prevailing difficulties for the proposed shifting of arrangements from Upper Balijatra Ground to Lower Balijatra Ground were discussed. During the discussions, it came to light that registration and auction process for 601 nos. of stalls in Upper Balijatra Ground have already been



completed in favour of the eligible applicants and requisite fees have already been realized apart from demarcation of stalls and electrical installations.

In the said affidavit, the Collector, Cuttack brought to the notice of this Court an order dated 22.09.2022 (passed in O.A. No.68/2020/EZ) of the National Green Tribunal, Special Bench, Calcutta, wherein the learned Tribunal had directed that the extended Balijatra Ground measuring 34 acres may be used for the organization of Balijatra without expanding it any further. Therefore, the Balijatra is being organized every year over the said ceiling land 34 acres at Lower Ground as per the direction of the learned Tribunal. The Collector, Cuttack further stated that the registration/auction/allocation process for 587 nos. of stalls for private eligible applicants and 1,250 nos. of stalls for different departments of Govt. and other organizations in Lower Balijatra Ground has also been completed and thus, it is not possible to accommodate the stalls from Upper Balijatra Ground in Lower Balijatra Ground as the latter has reached its maximum capacity.

Nonetheless, the Collector, Cuttack has assured this Court in his affidavit that a dedicated green corridor has already been made for smooth plying of emergency vehicles and vehicles and carcades of



dignitaries from Cantonment police station to Silver City Boat Club. Further, there has been a considerable expansion of traffic spaces to reduce traffic congestion and convenient movement of public over the roads. The D.C.P., Cuttack has been requested to ensure that no encroachment is made by unauthorized and small vendors over the footpaths and pavements. Similarly, the Commissioner, C.M.C., Cuttack has been asked to oversee sanitation and cleanliness and also to combat dust pollution in the Balijatra grounds and the City Health Officer, C.M.C., Cuttack has been instructed to come with flying squad to check food quality as well as to carry out regular enforcement. Furthermore, other departments like WATCO, Cuttack and TPCODL have been directed to ensure adequate drinking water and electrical installations respectively.

The Collector, Cuttack, has stated in his affidavit that in view of the order of the learned NGT as well as taking into account the completion of auction process for stalls of Upper Balijatra Ground and considering the difficulties in shifting the stalls and arrangements from Upper Balijatra Ground to Lower Balijatra Ground due to the ceiling limit of 34 acres of the latter, it is not feasible to relocate



Balijatra arrangements as suggested by this Court.
The affidavit is taken on record.

Summary of affidavit filed by D.C.P., Cuttack:

In pursuance of the order dated 30.10.2024, Sri Jagmohan Meena, I.P.S., D.C.P. Cuttack has filed an affidavit that letter has been issued to the Collector -cum- District Magistrate, Cuttack on 29.10.2024 for installation of CCTV in 21 places to guard against hooligans/mischief mongers/anti-social/criminal activities. Elaborate arrangements have been made for smooth conduct of Balijatra. About 67 platoons of police personnel would be deployed at all strategic points for security arrangements, crowd management, vehicular traffic and parking management. More than 20 nos. of police aid posts will be constructed by 13.11.2024. For controlling noise pollution, a team of State Pollution Control Board (SPCB) has been requested to check sound levels with police teams and letters have been issued to Regional Officer, State Pollution Control Board, Cuttack in that respect. The affidavit is taken on record.

Summary of affidavit filed by Asst. Fire Officer, Cuttack:

In pursuance of the order dated 30.10.2024, Mr. Sanjeeb Kumar Behera, Asst. Fire Officer,



Cuttack Fire Station has filed an affidavit that the occupiers of the stalls would be asked to keep at least two fire extinguishers, two fire buckets (one with sand and another with water), one blanket in the stall, temporary structure and to deploy a person having knowledge of operating fire extinguishers. Stall occupiers shall be provided basic knowledge with practical operating procedure of fire extinguishers. All fire service personnel of Fire and Emergency service of Fire Stations of Cuttack shall be kept on standby/in readiness to meet any eventuality. In addition to three existing fire stations in Cuttack City, additional six numbers of temporary fire stations will be opened, two bike patrolling units and two quick response units will be placed at large gathering areas to face any eventualities. Two pumps, one at Gadgadiah Ghat at Mahanadi and another at Gadaghahi, each having 70 HP capacity would be installed and the activity would be supported by two water loading teams deployed for the said purpose. The affidavit is taken on record.

Summary of affidavit filed by General Manager, WATCO Division, Cuttack:

In pursuance of the order dated 30.10.2024, Sri Manoranjan Jena, General Manager, WATCO Division, Cuttack has filed an affidavit that the



WATCO is going to construct 120 toilets and 100 temporary urinals from its own for meeting the requirement of the visitors/public during the Balijatra festival. WATCO is going to set up 120 nos. of 1000 liters of Sintex Tank with pedestal stands for supply of pure drinking water to the visitors/public in Balijatra festival. The WATCO has led pipelines in the area to supply 24 hours of drinking water for public interest. The affidavit is taken on record.

The learned counsel for the WATCO has stated that the WATCO authorities shall maintain the hygienic condition of all the toilets constructed by regularly cleaning and sanitizing.

Mr. Dattatraya Bhausahab Shinde, I.A.S., Collector, Cuttack appearing in person submitted that in view of the order passed by the learned National Green Tribunal restricting the ceiling land in the Lower Balijatra Padia to 34 acres, it is not possible to accommodate all the 601 nos. of stalls of Upper Balijatra Ground in the Lower Balijatra Padia and moreover since the registration and auction process of all the stalls of Upper Balijatra Ground have already been completed, it cannot be cancelled and therefore, it is not possible for this year to shift the stalls of Upper Balijatra Padia to Lower Balijatra Padia and for utilizing the Upper Balijatra Padia as



parking space for the vehicles.

The Collector further stated that arrangements are being made for the people who want to go from Upper Balijatra Padia to Lower Balijatra Padia to utilize the road in front of Gadagadia Temple whereas the people who want to come to Upper Balijatra Padia from Lower Balijatra Padia to use another route on the back side road of Gadagadia Temple and by adopting these two separate roads, the rush can be controlled and the possibility of stampede can be ruled out.

The Collector further stated that the small vendors who were utilizing the footpaths and pavements for running their business on the ring road in between the Upper Balijatra Padia and Lower Balijatra Padia so also the routes of the cantonment road and the road from Chandi Chhak to Barabati Stadium would be allotted a separate suitable place in the Lower Balijatra Padia so that they would not sustain any financial loss and the traffic problem and crowd congestion due to people purchasing from those vendors, would be drastically reduced.

Sri Jagmohan Meena, I.P.S., D.C.P. Cuttack appearing through virtual mode stated that there used to be traffic problem during Balijatra particularly in peak hours and sometimes the parking



areas are full for which people used to leave the vehicles on the way and visit Balijatra creating traffic congestion and therefore, more parking spaces would be identified particularly from Mahanadi Barrage, Jobra to Matamatha. If any such arrangement is made for the parking spaces at a distant place, the district administration shall make arrangement of free bus services or other vehicular arrangement for carrying the passengers from those distant parking spaces to a nearby place of Balijatra ground.

Mr. Anam Charan Patra, Commissioner, C.M.C. appearing through virtual mode stated that as per the direction of this Court, steps are being taken for beautification of the approach road to Balijatra and the surroundings particularly from Mahanadi Barrage, Jobra to Chahata Ghat, cutting of bushes from the road side. However, Mr. Patra submitted that pavements and road dividers are to be maintained and repaired by the R & B Department.

Mr. Pravas Kumar Majhi, Superintending Engineer, R & B Division, Cuttack appearing through virtual mode disputed the statement of the C.M.C. Commissioner that the pavements and road dividers have been entrusted to his Department for maintenance and repairing.



Mr. Dattatraya Bhausaheb Shinde, Collector, Cuttack intervened and assured this Court that the direction as has been given in the order dated 30.10.2024 for repairing the pavements and road dividers, beautification of approach road to Balijatra and the surroundings particularly from Mahanadi Barrage, Jobra to Chahata Ghat, cutting of bushes from the road side etc. would be completed prior to Balijatra.

Mr. Bijay Kumar Dash, learned President of Orissa High Court Bar Association filed a report to indicate that there is availability of space in the Lower Balijatra Padia to accommodate the stalls of Upper Balijatra Padia. He placed the request letters made by the Cambridge School, St. Xavier's High School, Sri Satyasai School, Krishnamurthy World School, St. Joseph's Girls' School, Smart Line Hospital, Melvin Jones Lions Eye Hospital, Ideal Nursing Home, Cuttack Club, Kingster Residency Apartment Owner's Association, Royal Residency Flat Owner's Association addressed to the District Magistrate and Collector, Cuttack for shifting the Balijatra Festival, 2024 from Upper Balijatra Ground to Lower Balijatra Ground for safety and security and benefit of general public of Cuttack. The report is taken on record.



The Collector, Cuttack has received a copy of the report submitted by the learned President of Orissa High Court Bar Association and submitted that the map which has been annexed to the report and the figure that has been given that 13.52 acres of land are still lying vacant in the Lower Balijatra Padia to accommodate all the stalls of Upper Balijatra Padia is not correct. However, he has assured this Court that the District Administration shall take all necessary steps to see that there is no inconvenience to the students in attending their classes and returning home.

The Collector has further stated that since most of the times during the year, there used to be some functions in the Upper Balijatra Padia which lead to noise pollution, traffic congestion and it also creates problem for the schools, hospitals and for the people living in the nearby apartments, steps shall be taken with the permission of the learned N.G.T. to shift all those activities to the Lower Balijatra Padia.

After carefully going through the affidavits filed by the authorities and hearing them and the learned counsel, we are of the humble view that in view of the order passed by the learned National Green Tribunal and particularly the registration/allotment of stalls in the Upper Balijatra Padia which was done



prior to the passing of the order dated 30.10.2024, let Balijatra, 2024 be held in Upper Balijatra Padia so also Lower Balijatra Padia. The District Administration shall ensure Ambulance, Fire Brigade, Water and Power Supply and other essential service vehicles to pass smoothly without any kind of hindrance on the Ring Road as well as on all the approach roads to Balijatra Ground during Balijatra Festival. Physical verification and spot analysis of all the major routes leading to Balijatra and static spots to be chalked out and final blue print and crowd management is to be prepared. The primary and alternate routes for the people to enter and exit Balijatra should be taken care of which would help crowd management. There must be proper planning to ensure smooth flow of people in peak hours.

The District Administration shall ensure that there is no street vending from Howrah Motor Square to Biju Patnaik Square and on both the sides of Upper Balijatra ground so also on the Ring Road. The street vendors are an integral part of Balijatra. The Collector, Cuttack shall provide a separate space for the street vendors on nominal user fee in a cluster which would enable them to sell the goods without creating any hindrance to the commuters on the road. The use of loud speaker except by the



Administration shall be restricted in the Upper Balijatra Padia.

The Collector, D.C.P. and other Govt. Servants who have filed affidavits before this Court and assured this Court to coordinate with each other for organizing Balijatra smoothly. This Court hopes that they shall live upto the expectations of the people and shall carry out their duties and commitments diligently.

List this matter on 12.12.2024.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

IMMERSION CERMONY OF MAA KALI

200.
07.11.2024

As per order no.189 dated 30.10.2024, in view of the suggestions given by the learned President of the Orissa High Court Bar Association, the Collector, Cuttack was directed to convene a meeting of all the Puja Committees and Shanti Committee and deliberate upon such suggestions and to take necessary measures for the immersion ceremony of Maa Kali on 03.11.2024.

The Collector, Cuttack, D.C.P., Cuttack and the President of the Orissa High Court Bar Association



submitted that there has been hassle-free observance of immersion ceremony of Maa Kali on 03.11.2024.

No further order is required to be passed under this heading.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

RECKLESS DRIVING OF THE DRIVERS OF 'MO BUS'

201.
07.11.2024

As per order no.194 dated 30.10.2024, Dr. N. Thirumala Naik, I.A.S., M.D., Capital Region Urban Transport (CRUT) appeared through virtual mode and has filed an action taken report relating to the measures taken by the authority to sensitize the drivers of 'Mo Bus' against reckless driving. It is brought to the notice of this Court by the Members of Advocates' Committee that on 02.11.2024, one girl sustained serious injuries after being hit by a speeding 'Mo Bus' in Bhubaneswar.

Mr. Janmejy Katikia, learned counsel appears for CRUT, Bhubaneswar. In the action taken report, it has been mentioned that CRUT is implementing targeted safety measures by improving the driver



training and thereby ultimately enhancing service quality and building public trust in the transit system. The training programmes are organized by CRUT for driving heavy motor vehicles to all the drivers on regular basis and 789 drivers were imparted training. There used to be surprise checking and monitoring by Technical Inspectors and Depot Managers and the bus operators are penalized with Rs.10,000/- in serious accident cases, if found guilty and in major accident, the cost, if any, is being ensured to be borne by the bus operators. Twelve drivers have been discontinued from duty for drunk and drive violations. Licenses of drivers involved were suspended for six months by the concerned R.T.Os. and the drivers found guilty have been permanently removed from their duties. Speed limit has been reduced from 50 Kmph to 40 Kmph for diesel buses and 50 Kmph to 35 Kmph for electric buses. Best drivers with zero accidents in every quarter from each depot would be facilitated to motivate the drivers. There is proposal to collaborate with reputed training partners for training of drivers on safe driving skills, behavioural aspects and stress management etc. All the bus operators have been directed to engage more traffic controllers and route supervisors to monitor over speeding, skip



stoppages, drunken driving and route deviations. The Revenue Assurance Team (Vigilance Squad) has been entrusted with responsibility to closely monitor the over speeding, skipping stoppages, drunken driving and route deviations by the bus drivers en route in addition to their own duties. A Centralized Command Control Centre has been set up for real time monitoring of the buses, grievance handling and two way communication with the drivers. The action taken report is taken on record.

Mr. Naik, M.D., CRUT told us that he assumed the charge as M.D. since September, 2024 and CRUT has selected seven operators for running of 'Mo Bus' and the operators are engaging the drivers and conductors and since within a week, two accidents have taken place, the speed limit of 'Mo Bus' has been reduced and 94 nos. of 'Mo Bus' are plying in Cuttack City in 21 routes and 200 minor and major accidents have been reported against 'Mo Bus' in 2024 and even though regular checking are made and the drivers and conductors are sensitized, but there are still issues to be sorted out.

We find that no proper steps have been taken by the CRUT authorities to check the buses and the condition of the drivers when it starts from the terminal, the nature of checking that is being carried



out for every bus is also not clear, the nature of training that is imparted to the drivers is also shrouded in mystery for which 'Mo Bus' services have become dangerous for the public and the people on the street are terrified when they see a 'Mo Bus' approaching.

Mr. Naik failed to say whether breath analyzer test for detecting alcohol consumption is being carried out regularly or not from the starting point as well as on the roads during the midst of the route.

Mr. Diptesh Patnaik, I.P.S., the C.M.D. of OSRTC appeared through virtual mode and apprised this Court about the steps taken for getting the quality drivers for operating LAccMI buses in rural areas and following service level parameters and keeping the cameras in the buses to see whether there is any reckless driving, using sensors to detect whether the drivers are drunk and if anything noticed in the control room from the pupil movement of the drivers, necessary instructions are passed immediately and the operators are insisted to put relevant infrastructures in the buses for which there is almost zero casualty.

Mr. Naik of CRUT submitted that he has received information that the behaviour of the drivers of 'Mo Bus' towards passengers is very bad



and trainings have been imparted for good behaviour. He further submitted that since the speed limit has been reduced, if any driver of 'Mo Bus' tries to enhance the speed beyond the limit prescribed, it can be detected easily and immediate instruction to be issued to him to control the speed of the bus.

He has assured this Court that all the technology adopted and measures taken by the LAccMI bus operators would be implemented in 'Mo Bus' services.

The MD, OSRTC has placed on record the major road safety initiatives taken by the OSRTC.

The CRUT is directed to adopt such major road safety initiatives including the comprehensive insurance of buses as indicated in the note submitted by the MD, OSRTC, in case such comprehensive insurance has not been provided for the buses run by CRUT.

In the event the CRUT has any independent insurance policy, the same shall be placed on record by the next date by way of affidavit. Further, the affidavit must disclose the financial details of the agreement between CRUT and the agency running 'Mo Bus' service. The details should include:

1. The contract amount payable by the agency to CRUT - monthly/quarterly/annually, as the



case may be;

2. The minimum daily target set (distance in kilometres) for each driver by the Agency;
3. The rationale/basis/logic based on which such targets are set;
3. The incentive over and above wages of each driver for achieving/exceeding the target given;
4. Whether the Agency was awarded the contract through open tender;
5. To what extent CRUT has control over the Agency in case of any incident/mishap or otherwise and to regulate their operations.

We direct that every day from day after tomorrow, there shall be a breath analyzer test for each of the drivers of 'Mo Bus' who are driving in Cuttack City for detecting alcohol consumption not only at the starting point but also randomly on the way and the records of such test conducted shall be uploaded in the portal of CRUT and placed before this Court on the next date.

Instructions shall be issued to the drivers and conductors to stop the buses only at designated places, as stopping the buses here and there on the way is creating traffic congestion and necessary



instruction shall also be given to them to behave in a decent manner with all the passengers.

Since there are two types of 'Mo Buses' plying in Cuttack City, let the CRUT authorities take immediate steps to see that smaller buses run inside the town and bigger size buses on the ring road and the drivers should not be asked to work for more than 8 hours a day under any circumstances, which is likely to reduce the rate of accidents.

List this matter on 05.12.2024.

Lack of proper lighting arrangement from Netaji Bus Terminal to Children's Park, Khannagar

The Commissioner of C.M.C. was directed to take necessary steps in providing lighting in the aforesaid area and to file a compliance report.

Mr. Anam Charan Patra, Commissioner, C.M.C. has filed an affidavit that previously street lights were installed in the median of the road which was leading from Netaji Bus Terminal to Children's Park, Khannagar, but due to expansion of the Ring Road and conversion of four lane to six lane, the median pole with lights were dismantled and after completion of expansion of the said Ring Rod by R & B Division, Cuttack, permanent street lighting can be done. For providing street lights on temporary



arrangement, since there is no power supply line in front of CNBT area or nearby, the same is not feasible.

Mr. Anam Charan Patra, Commissioner, C.M.C. submitted that Asst. Engineer, Mr. Prabhas Biswal has visited the spot and given the report. Mr. Biswal also appeared before us through virtual mode.

Mr. Amarjeet Patnaik, Superintending Engineer, Electrical, Cuttack City joined through virtual mode and submitted that even if there is no power supply in that particular area, the solar street lights can be put in place temporarily to address the problem.

Let Mr. Prabhas Biswal, Asst. Engineer, C.M.C. and Mr. Amarjeet Patnaik, Superintending Engineer make joint inspection and ensure that street lights are installed as a temporary measure and report compliance.

The D.C.P., Cuttack assured on 30.10.2024 to take necessary steps for preventing anti-social activities in that area.

The D.C.P. has filed an affidavit wherein he has indicated that he has issued direction to I.I.C., Badambadi police station and ACP, Zone-VI to enhance patrolling in the area from Netaji Bus Terminal to Children's Park, Khannagar. Regular patrolling has been intensified to prevent anti-social



activities. One temporary structure having asbestos roof was noticed during the patrolling having no practical utility or purpose and the said structure has been demolished and fine has been imposed on six persons who are found smoking in public inside the temporary structure.

List this matter on 05.12.2024.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge