



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. P.K. Parhi, D.S.G.I.

*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

12.12.2024

Order No.

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

CONDITION OF ROADS AND OTHER CIVIC AMENITIES

219.
12.12.2024

As per order no.180 dated 03.10.2024, Mr. Anam Charan Patra, C.M.C. Commissioner stated that all



the road works of 59 wards of Cuttack City, the data of which was provided by the Advocates' Committee, shall be completed as far as possible before Durga Puja. However, when the matter was taken up on 30.10.2024, the C.M.C. Commissioner sought for extension of time till the end of November 2024 to complete the work and accordingly, the same was reflected in the order no.196 dated 30.10.2024.

In pursuance of the order no.196 dated 30.10.2024, the City Engineer, Cuttack Municipal Corporation filed a compliance report dated 10.12.2024 wherein it is mentioned that steps have already been taken by the C.M.C. to repair and re-construct the roads, the details of which were given by the Advocates' Committee.

Out of 105 nos. of road and drain works, 64 nos. of works have been completed. Similarly, 6 nos. of roads belong to R & B Division-I, Cuttack and 35 nos. of works come under the category like work under progress, private road and road is in good condition etc.

A detailed chart has been furnished along with the compliance report indicating the status of the roads and drains which were submitted by the Advocates' Committee. The ward no., name of the work, the name of J.E./A.E./I.E. with their contact



numbers and present status of the works have been detailed therein.

A copy of the same has been furnished to the learned President of Orissa High Court Bar Association in Court today, who has assured this Court to obtain response from the Advocates of the concerned wards and submit a reply indicating therein as to whether the status report furnished by the City Engineer, C.M.C. is correct or not.

List this matter on 09.01.2025.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

REPAIRING AND CLEANING OF WALL OF BRANCH DRAIN

220.
12.12.2024

In the compliance report dated 10.12.2024 submitted by the City Engineer, Cuttack Municipal Corporation, it is stated that so far as repairing and cleaning of wall of branch drain from Jhola Sahi to Seminary Square and Old Rousapatna to New Rousapatna where the branch drain touches the box drain, detailed project report (DPR) has been submitted to the Government for renovation of all five numbers of Branch Storm Water Channel



(BSWC).

The City Engineer Mr. Atanu Kumar Samanta appearing through virtual mode stated that the project cost of the five numbers of BSWC is Rs.320 Crores and it was submitted to the Government on 21.08.2024. Similarly, another DPR has been submitted to the Government for construction of drains to stop the flow of drain water to Taladanda Canal and the project cost is Rs.32 Crores and it was submitted to the Government on 23.08.2024.

Let the learned counsel for the State obtain instruction about the status of sanction of the aforesaid two DPRs. A responsible officer of the concerned department shall file an affidavit in that respect.

List this matter on 09.01.2025.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

CREATION OF A DEDICATED WEBSITE BY C.M.C

221.
12.12.2024

This issue was taken up on 30.10.2024, when the learned counsel for the C.M.C. took time to apprise this Court about the status of creation of a dedicated website by C.M.C. wherein information



regarding all the developmental works undertaken by the C.M.C. in different wards of Cuttack City are to be uploaded for public information.

Today, Mr. Debasish Nayak-A, learned counsel for the C.M.C. submitted that the dedicated website work is under progress and out of 59 wards under C.M.C., for ward nos.1 to 5, it has been completed and for the rest of the wards, the data uploading work is under progress and it is likely to be completed by February, 2025. He made a video presentation of the functioning of website of ward nos.1 to 5.

On the next date, the learned counsel for the C.M.C. shall apprise this Court about the status of creation of dedicated website in respect of the remaining wards.

List this matter on 06.03.2025.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

SARDAR VALLABHBHAI PATEL POST GRADUATE
INSTITUTE OF PAEDIATRICS (SISHU BHAWAN)

222.
12.12.2024

As per order no.208 dated 28.11.2024, this Court requested the learned President of the Orissa High



Court Bar Association and Head of the Advocates' Committee to visit the Sardar Vallabhbhai Patel Post Graduate Institute of Paediatrics (Sishu Bhawan) and to submit a report in view of the allegations received that because of encroachment in and around Sishu Bhawan, it is causing untold misery and hardship to all concerned and it was further requested to the Advocates' Committee to suggest remedial measures.

The Advocates' Committee submitted the report wherein it is stated that the Committee visited Sishu Bhawan on 03.12.2024 and its surroundings to take stock of the allegation relating to encroachments.

The Superintendent of Sishu Bhawan along with the Hospital Managers and Administrative Officer of Sishu Bhawan, the Commissioner, C.M.C., Deputy Commissioner (Enforcement), C.M.C., the I.I.C., Lalbag police station and other officials accompanied the Advocates' Committee.

The Advocates' Committee noticed a couple of tea stalls near the front entrance to Sishu Bhawan i.e. between the Ring Road and Sishu Bhawan boundary wall. Some private ambulances and auto rickshaws were found to be constantly passed in front of another gate on the front side of Sishu Bhawan, which is currently not in use. A new gate has been constructed



on the front side of Sishu Bhawan facing the Ring Road, with separate openings for ingress and egress. Such gate having a wider opening in comparison to the existing gate and it is being constructed to facilitate smooth access to Sishu Bhawan from Ring Road side. However, the same remains unused awaiting demolition of the old building.

The Advocates' Committee observed that there are substantial encroachments on the backside of Sishu Bhawan i.e. from the side of Lalbag Police Station. It is reported that the rear gate is closed for vehicles since last few years. A number of shops, including small hotels, tea stalls etc. were found operating on the back side of Sishu Bhawan. The waste generated by these hotels and tea stalls are discharged into Sishu Bhawan leading to unhygienic conditions. The presence of encroachment is causing congestion. Several photographs showing encroachments of the road and unhygienic atmosphere created by the street vendors are attached to the report. A video clipping of the encroachment of the road in front of Sishu Bhawan from the side of Lalbag police station is displayed in Court.

The Advocates' Committee has suggested the following remedies:

- (i) directions to be given to the C.M.C. and I.I.C., Lalbag police station to take steps for



removal of encroachments, especially on the back side of Sishu Bhawan (in front of Lalbag police station) so that patients and attendants can have access to Sishu Bhawan from the rear gate;

(ii) the authorities may consider putting in place a mechanism to regulate entry into the campus of Sishu Bhawan so that it is not used as a public thoroughfare to traverse the distance from Chandini Chowk side to Ring Road;

(iii) presence of a police aid post shall bolster the courage of the private security guards in ensuring that the roads of Sishu Bhawan are not used as public thoroughfare after re-opening of the gate from Lalbag police station side;

(iv) facilitation of access through the new gate from the Ring Road side should also be considered;

(v) to prohibit movement of private vehicles inside Sishu Bhawan and making provision for adequate numbers of battery operated vehicles to ferry patients and attendants from the entrance of Sishu Bhawan to their destination inside the campus.



In the Advocates' Committee report, it has been stated that construction of a G+6 new building for housing a multi-utility hospital has been completed almost two years ago and the operation of the new building would have almost doubled the capacity of Sishu Bhawan to nearly 850 beds. Similarly, a hostel building for post graduate students is lying unutilized. The students are accommodated in S.C.B.M.C.H. These buildings are currently not in use for want of fire safety certificate.

Delay in recording of the land in favour of the Health Department is stated to be the primary reason for delay in issuance of fire safety certificate. It is stated that electricity charges to the tune of Rs.4 lakhs per month is being paid for operation of the central air conditioning system in the new building since the same would be damaged if it is not in operation. There is a pond in front of the hostel building, which needs to be cordoned off with grill or in some other manner to prevent any mishap. The photograph of the hostel building lying unutilized with the pond is attached to the report.

The Advocates' Committee observed that drains are narrow and clogged and the drains have become fertile breeding grounds for the mosquitoes. Stray dogs are seen inside the campus and are a



cause of concern. There was also littering in the campus. Debris left over from construction was also found stacked. There is necessity for widening of drains as well as cleaning of drains and the campus at regular intervals and further a drive is required to be conducted to remove the stray dogs from the campus of Sishu Bhawan.

The Advocates' Committee noticed that although attendants' rest shed is provided in Sishu Bhawan campus, yet the space provided is woefully inadequate, as a result of which the attendants are found using the ground for rest facing untold misery and hardship.

The Advocates' Committee suggested that there should be provision of nets in the windows and availability of fans which would make it more convenient for the attendants. Installation of proper fire safety systems in the attendants' rest shed is also suggested. Some photographs of attendants' rest shed and attendants' resting on the ground are attached to the report.

This Court is shocked and deeply pained perusing the Advocates' Committee report. The photographs and video presentation is a testimony as to how a premier institute of the State which is meant for child health care is being mismanaged by



the authority. The lackadaisical attitude of the authority cannot be countenanced. It is strange that both the sides of the roads of the gates of Sishu Bhawan are encroached.

The learned counsel for the C.M.C. placed some orders passed by this Court in cases stated to have been filed by the street vendors.

Section 18 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereafter referred to as "2014 Act") states, inter alia, about declaration of no-vending zone for any public purpose by the local authority on the recommendation of the Town Vending Committee. It further states about relocating the street vendors vending in the area and the local authority has been empowered to evict the street vendors whose certificate of vending has been cancelled under section 10 or who does not have a certificate of vending and vends without such certificate.

2014 Act further provides that the Town Vending Committee has to issue certificate of vending with such terms and conditions and for the period specified therein including the restrictions. The survey of street vendors is also required to be conducted. The Town Vending Committee has been defined under section 2(m) of 2014 Act which means



a body constituted by the appropriate Govt. under section 22.

Let the C.M.C. Commissioner file an affidavit as to whether there is any existence of Town Vending Committee which has been constituted by the appropriate Govt. in accordance with law and if so, the document in that respect shall be annexed to the affidavit. In the said affidavit, it shall also be specifically stated as to whether each of the street vendors who are occupying the roads in front of Sishu Bhawan, both from the front side or back side (Lalbag police station side) are having certificates of vending or not, if any such certificate of vending has been cancelled and who are having no such certificate at all. It shall also be specifically stated as to whether the certificates issued in favour of the street vendors are in accordance with law and by the competent authority or not.

Mr. Dattatraya Bhausahab Shinde, I.A.S., Collector, Cuttack appearing through virtual mode stated that he would go through the report of Advocates' Committee and take remedial measures.

The Collector, Cuttack and all concerned who are at the helm of affairs of Sishu Bhawan shall file their respective affidavits relating to the suggestions/remedial measures as highlighted by the



Advocates' Committee in its report by the next date.

It shall be specifically mentioned in the affidavit by the concerned authority as to when G+6 new building of Sishu Bhawan so also the hostel building for the post graduate students shall be made operational.

This Court expects that the authorities shall do well to take all necessary measures forthwith to ensure that there is no hindrance in free movements of the doctors, patients and their attendants and ambulance through the gates from the Lalbag Police Station side.

Right to Health is a facet of Right to Live as embodied under Article 21 of the Constitution. The distressing condition in which the premier institute is functioning as per the Advocates' Committee Report needs to be addressed on an emergent basis.

Accordingly, list this matter on 19.12.2024 on which date the Secretary, Health along with Collector, Cuttack, DCP, Cuttack and Commissioner of CMC shall remain present either through V.C./in person to assist this Court in addressing this issue.

Learned counsels appearing for the State as well as C.M.C. shall intimate the concerned officials accordingly.



This Court places on record its appreciation for the painstaking efforts taken by the Advocates' Committee in submitting their report.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

SATYABRATA STADIUM

223.
12.12.2024

As per order no.217 dated 05.12.2024, this Court directed to convene a meeting to be chaired by the Collector, Cuttack in which the DCP, Cuttack, CMC Commissioner and representatives of Sports Authority of India shall also take part, to suggest remedial measures to restore the glory of Satyabrata Stadium which is also popularly known as "Village Ground".

In pursuance of such order, Mr. Dattatraya Bhausahab Shinde, I.A.S., Collector, Cuttack has filed an affidavit dated 11.12.2024 wherein it is stated that in compliance of this Court's order dated 05.12.2024, a meeting was held under his chairmanship on 09.12.2024 with all the stakeholders i.e. Deputy Commissioner of Police,



Cuttack, Commissioner, C.M.C., representatives of A.S.I. to redress the issue of Satyabrata Stadium and it was decided to have a spot visit of the stadium along with all stakeholders on 11.12.2024 and on 11.12.2024, he along with the Deputy Commissioner of Police, Addl. Commissioner of C.M.C., Superintending Archeologist, A.S.I., Puri Circle, District Sports Officer and Superintendent of Excise, Cuttack visited the stadium and had a thorough discussion over the issue and decided to take the following remedial measures:

- “(i) Archeological Survey of India, Puri Circle will take necessary steps for replacement of damaged turn style gate with new MS Grill Gate having locking arrangements;
- (ii) A.S.I. will take steps for fixing of concertina fencing over the road side boundary wall to stop the trespassing;
- (iii) A.S.I. also to provide Security Guards from 10:00 a.m. to 06:00 p.m.;
- (iv) The Stadium will be kept open from sunrise to sunset as per the provision of ASI;
- (v) C.M.C., Cuttack will take steps for trimming of trees inside the stadium and



also put street lights inside the stadium;

(vi) C.M.C. will provide cleaning staffs on regular basis to keep the stadium garbage free;

(vii) D.C.P., Cuttack will make night patrolling and provide police personnel to prevent nuisance caused by antisocial”.

The affidavit is taken on record.

The City Engineer, C.M.C. has filed the compliance report dated 10.12.2024 wherein it is stated that as per the direction of this Court, lighting arrangement inside Satyabrata Stadium has been made by C.M.C. and 28 nos. of street light fittings have been installed in the walking track of village ground of Satyabrata Stadium and at present, all the street lights are glowing and if any problem would be noticed at any time, the same would be repaired immediately. It is further stated that regarding notification for time of opening of gate of the Stadium, the decision has to be taken by the A.S.I. It is further stated that the cleaning of garbage, bush cutting, pruning of trees at the Stadium has been taken up by the C.M.C.

The D.C.P. Shri Jagmohan Meena, I.P.S. appearing through virtual mode stated that the I.I.C. of the Cantonment police station has been instructed



to make regular patrolling in and around the village ground and the illegal activities of taking liquor inside the ground has been reduced to a great extent because of such patrolling. He further stated that staff have been deployed to regulate the traffic outside the Stadium to prevent traffic congestion.

Mr. P.K. Parhi, learned D.S.G.I. appearing on behalf of the Archeological Survey of India stated that he would go through the remedial measures as has been highlighted by the Collector, Cuttack in his compliance affidavit and whatever concerns the A.S.I., shall be immediately addressed and affidavit in that regard shall be filed by the next date.

He has also assured this Court that whatever support would be required from the side of A.S.I. shall be provided and there would be display of boards around the village ground showing the opening and closing time so also making provision for washroom facility.

It was pointed out by the Advocates' Committee that there used to be basketball court in the village ground including spectators gallery in front of the court and the same has been totally damaged and there is requirement for improvement of the existing facility including the provision for access to differently-abled persons to the village ground.



The learned counsel for the C.M.C. and Mr. Parhi, learned D.S.G.I. have assured to look into the grievances.

List this matter on 19.12.2024.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

BEAUTIFICATION AND EXPANSION WORK OF TALADANDA

224.
12.12.2024

Attention of this Court is drawn to a news item published in vernacular daily under the caption of "ATAKI JAICHI TALADANDA SOUNDARJIKARANA, SAMPRASARANA; CHATRABAZARRU BIRIBATI PARJYANTA BIBHINA STHANARE MATI GODIRE RASTA ABARODHA", wherein it is reported that the expansion of the Taladanda beautification has been stalled. Various roads from Chatrabazar to Biribati have been blocked in soil. Taladanda canal upgradation and beautification schemes are now in a complete state of disarray. From Jobra barrage to Chatrabazar, some works have been done but since then it is in a state of complete limbo. The



construction of wide road on either side of the Taladanda canal from Chatrabazar to Biribati has come to a halt. While the road on the left side of the Taladanda canal, which leads from the National Highway towards Nuabazar, is commutable, the right-side road is blocked by bulldozers. On both sides of the road, at various places, soil and red morrum have piled up. In many places, garbage is piling up and blocking roads. Condition of both sides of Taladanda canal from National Highway 16 bridge to Biribati is in a miserable state. Soil and red morrum have buried the side road along the Taladanda canal up to the Kandarpur Shiva temple. The paver-block footpath road, some distance away from the bottom of the Tinigharia overbridge, leads to the Kandarpur Shiva temple is piled with red morrum and soil. The expenses of Rs.50,00,000/- on the paver-block road is a complete loss. The work near Matgajapur station remains incomplete as the electricity department has not removed the poles. Due to such inaction in the extension of the Taladanda road, the common people are now facing more inconvenience than ever before. There is a demand that the authorities take immediate steps in this regard. The news clipping is taken on record.



In view of such clipping, the Superintending Engineer, Cuttack (R & B) Division No.1 made a joint inspection of Taladanda Canal on 09.12.2024 with the officials of WATCO, TPCODL and Mahanadi South Division-I and submitted a report, which is taken on record.

In the said report, it is mentioned that the total length of embankment road between Jobra to Biribati is 12.100 kms. where different activities are going on by different departments which are as follows:

- Expansion of embankment road by R & B;
- Beautification work by C.M.C.;
- Canal Lining work by Water Resources Dept.;
- Construction of drain by WATCO.

The road work from Jobra to Railway line has been completed by Cuttack R & B Division No.1, Cuttack but the stretch from Chatra Bazar to Railway line (right embankment) road has been closed by WATCO (Drainage Division) due to their ongoing drain work which would be completed by 31st May 2025 as per letter no.1264 dated 26.07.2024 and no.981 dated 07.06.2024 of GM, WATCO (Drainage). The railway portion work from Railway line to Matru Bhawan is going in coordination with other stake holders like TPCODL and Railway Authority. It is



expected to be completed by February 2025. The road work from NH to Nuabazar (right embankment) has been completed except 150 mtr. near NH overbridge which will be taken up after completion of ongoing drain work and balance 300 mtr. lining work by WATCO and WR Department respectively. As per joint visit on dated 09.12.2024, WATCO Authority intimated to complete the work below NH portion by end of January 2025 and WR Authority has also intimated that, their lining work will be completed by March 2025. The morrum and other construction materials dumped on the road surface by WR Department during their canal lining work would be cleared by 17.12.2024 as intimated by the Superintending Engineer, Mahanadi South Division-I, Cuttack vide his letter no.10021 dated. 10.12.2024. The work from Nayabazar to Biribati is in progress. 5.00 km of road work has been completed out of 6.900 km and balance portion work will be completed by March 2025 after shifting of electrical utilities & other utility services. The beautification work of Taladanda canal road is being taken up by C.M.C. The smart footpath work will be completed within two months and total project will be completed by end of May 2025 as intimated by C.M.C. Authority in response to the letter no.16525



dated 09.12.2024 of R & B Division No.1, Cuttack.

List this matter on 20.02.2025.

The status report of the respective works as highlighted by the Superintending Engineer, Cuttack (R & B) Division No.1 in his report shall be submitted by the concerned authorities.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge