



**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**

**19.12.2024**

**Order No.**

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

**S.C.B. MEDICAL COLLEGE AND HOSPITAL  
PROBLEMS**

225.  
19.12.2024

As per order no.190 dated 30.10.2024, we asked the Advocates' Committee to visit S.C.B.M.C.H., Cuttack to verify the veracity of the



compliance report submitted by the learned counsel for the State under the heading of 'present status as on 17.10.2024' relating to the remedial measures taken.

**(i)** The Advocates' Committee submitted the report after their visit to S.C.B.M.C.H., Cuttack wherein it is stated that an additional ward for 29 patients has been created in the Cardiology Department pursuant to the observations of the Committee during its earlier visit. Advocates' Committee is of the view that additional staff might be required for the functioning of the additional ward. They have mentioned in the report that broken air conditioners and walls and roof were not yet replaced and renovated which would be evident from the photograph annexed to the report.

Professor Dr. Lucy Das, Dean and Superintendent in-charge, S.C.B.M.C.H., Cuttack is present in Court today and assured that the concern of the Advocates' Committee regarding replacement and renovation of the air conditioners, walls and roof would be taken care of very soon. Let the compliance report be submitted in that respect. This Court expects that sufficient staff shall be provided for functioning of additional ward for 29 patients created in the Cardiology Department.



**(ii)** In the Advocates' Committee report, it has been pointed out that they visited the Mental Health Institute i.e. Psychiatric Department and the Cardiology Department on 09.12.2024 to verify the conditions and found that the Psychiatric Department was well maintained. The HoD of Mental Health Institute stated before the Committee that one more ECT (Electro Convulsive Therapy) machine is required and one permanent Anesthesia Doctor (which is already sanctioned), is also necessary as the Psychiatric Department used to depend on the doctor from Anesthesiology Department and when the said Department does not provide doctor, the patients are unable to get the facility of ECT.

Professor Dr. Lucy Das submitted that Director of Mental Health Institute Dr. Sarada Prasad Swain has already made necessary correspondence with the concerned authority for procuring ECT machine and one permanent Anesthesia Doctor.

Let Dr. Sarada Prasad Swain appear on the next date and apprise this Court regarding the development made in the procurement of ECT machine and appointment of a permanent Anesthesia Doctor.

**(iii)** In the Advocates' Committee report, it is mentioned that it has been told to them that



provision for admitting patients beyond OPD hours directly into the Cardiology Department would begin and for that there is need for support staff like staff nurse and technicians, which the Superintendent has assured to provide.

Professor Dr. Lucy Das submitted an action taken report dated 17.12.2024 wherein it is mentioned that a meeting was convened for functioning of emergency care in the Department of Cardiology beyond the OPD hours i.e. from 5.00 p.m. to next day 9.00 a.m. under her Chairmanship and in the said meeting, Professor Dr. Manoj Pattnaik (Addl. Medical Superintendent), Professor S.K. Mishra (HoD, Cardiology), Professor N.K. Mohanty (Professor, Cardiology), Dr. Abinash Rout (Registrar, Administration) and Dr. C.K. Mishra (Associate Professor, Cardiology) were present and following decisions were taken:-

- a) Provision of space for patient accommodation;
- b) provision of echo machines for patient care;
- c) functionalization of emergency care beyond OPD hour (from 5 p.m. to next day 9.00 a.m. everyday) and
- d) enhancement of unit.



a) **Provision of space for patient accommodation:**

Necessary arrangements have been made to accommodate patients in the 1<sup>st</sup> floor of the Cardiology Department making provision of additional 24 nos. of IPD beds with required nos. of paramedics and other health works and it is made functional.

b) **Provision of Echo machines for patient care:**

Regarding requirement of equipment such as Echo machines, it is stated that as intimated by GM operation (equipment), OSMCL, the indent for procurement of 2 nos. of Echo machine with TEE probe for Cardiology Department of S.C.B.M.C.H., Cuttack has been approved in State Equipment Management Committee (SEMC) and necessary budget allocation for the same has already been made and accordingly, the tender for Echo machine with TEE probe has already been floated by OSMCL against which the technical evaluation of bid has already been completed. The tentative timeline for finalization of tender of Echo machine with TEE probe will be by 31<sup>st</sup> December 2024 and the tentative timeline for supply of Echo machine with TEE probe to the Cardiology Department of S.C.B.M.C.H. will be March 2025.



**c) Functionalization of emergency care beyond OPD hour (from 5 p.m. to next day 9.00 a.m. everyday):**

(i) It has been decided that emergency care shall be continued in the department of Cardiology beyond OPD hour i.e. from 5.00 p.m. to next day 9.00 a.m. everyday and any known case of cardiac disease or referred patient with cardiac issue from outside shall directly go to Cardiology Department;

(ii) For any unknown cases of cardiac disease, the cardiology doctor who is posted in non-trauma casualty shall examine the patient with cardiac symptoms and subsequently he will refer the patient to cardiology department for further evaluation and treatment;

(iii) It has been decided that, for functionalization of emergency care in Cardiology Department (beyond OPD hour), the requirement of manpower and equipment/instrument shall be provided by the Medical Superintendent and the manpower as well as equipment/instrument which cannot be arranged by the Medical Superintendent shall be sent to the Govt. in Health & Family Welfare Department for further action.



**d) Enhancement of unit:**

It has been decided to enhance the no. of unit from 2 to 3 for better management of patient care of the department.

**Opening of another Aahar Centre in S.C.B.M.C.H., Cuttack:**

Professor Dr. Lucy Das in her action taken report dated 17.12.2024 has mentioned that tender call notice has already been invited on 19.12.2024 by the Executive Engineer, CD-III, C.M.C. and she has annexed the copy of tender call notice along with her report which indicates that the bid would be opened on 24.12.2024. It is further stated that the existing Aahar centre is providing 1,500 meal in lunch and 1,000 meal in dinner.

**Opening of Mission Shakti Café in S.C.B.M.C.H., Cuttack:**

Professor Dr. Lucy Das in her action taken report dated 17.12.2024 has mentioned that the Collector, Cuttack was intimated vide office letter no.25935 dated 27.11.2024 to depute authorized officer of Mission Shakti branch for joint verification of the site. During visit, the site was found unsuitable as the same can be better utilized for extension of Niramaya Centre as many patients are waiting for longer time to get medicine. It was



suggested to renovate the existing café now running (from 9.00 a.m. to 5.00 p.m. everyday) in the open space of Dean Office campus which can be made functional for 24x7.

**Shortage of doctors and staff in S.C.B.M.C.H.,  
Cuttack:**

Professor Dr. Lucy Das in her action taken report dated 17.12.2024 has mentioned that appointment orders have been issued for filling up of 33 nos. of SR/Tutors, 11 nos. of Asst. Professors and 12 nos. of Associate Professors.

Learned counsel for the State has placed before us a letter dated 18.12.2024 issued by Commissioner -cum- Secretary to Govt. of Odisha, Health and Family Welfare Department wherein it has been mentioned that to fill up vacancy at the base level post i.e. Asst. Professor, regular recruitment is being conducted through OPSC and on 01.08.2023, there was an advertisement for 102 nos. of Asst. Professor for all Govt. Medical College and Hospitals, on 27.02.2024, there was an advertisement for 9 nos. of Asst. Professor for S.C.B. & M.K.C.G. and on 24.10.2024, there was an advertisement for 230 nos. of Asst. Professor for all Govt. Medical College and Hospitals. It is further mentioned therein that the State Govt. is taking all



possible step to address the shortage of faculties, balancing long term recruitment process with temporary contractual measures. These efforts aim to ensure compliance with NMC norms while improving medical education and health care services and diligent and judicious steps are being taken to fill up vacant posts at all medical colleges including S.C.B.M.C.H., Cuttack by way of recruitment conducted by OPSC and promotion of eligible faculties in a regular manner. The letter is taken on record.

**Post of Superintendent of S.C.B.M.C.H., Cuttack lying vacant:**

The Advocates' Committee in its report highlighted that the post of Superintendent is yet to be filled up as per the norms of the National Medical Commission by following Teachers Eligibility Qualification in Medical Institutions Regulations, 2022.

Clause 3.7 of 2022 Regulations provides that the Medical Superintendent of the affiliated teaching hospital shall possess a recognized post graduate medical degree from a recognized institution with a minimum of ten years teaching experience as Professor/Associate Professor in the relevant departments of the hospital, out of which at least



five years should be as Professor. Appointment to these posts shall be made on seniority-cum-merit basis. Medical Superintendent shall not occupy the position of the Head of Department, however he can head the unit.

Professor Dr. Lucy Das submitted that since September, 2024, the post of Superintendent is lying vacant and she is in-charge of Superintendent.

Since Superintendent has a crucial role to play in the effective functioning of S.C.B.M.C.H., Cuttack, learned counsel for the State shall apprise this Court on the next date after taking necessary instruction from the Govt. as to when this post shall be filled up as per NMC norms.

**Procurement of MRI & CT Scan machine:**

In the Advocates' Committee report, it has been pointed out that during deliberations on the issue of procurement of equipment especially for the Neurosurgery Department and Cardiology Department, it surfaced that Mahanadi Coalfields Limited had approved funding of Rs.46,34,80,000/- (rupees forty six crores thirty four lakhs eight thousand) under the CSR initiative for procurement of MRI & CT Scan machine. It was learnt that unless the proposal is processed before 31<sup>st</sup> March 2025, the approval may be withdrawn.



Smt. Aswathy S., I.A.S., Health Secretary, Odisha appearing through virtual mode stated that acceptance of contribution on account of CSR requires approval from Govt. Accordingly, it was placed before the Govt. and approval from Govt. has been obtained today and OSMCL shall be instructed to initiate the tender process.

She further stated that once the approval letter is submitted to the MCL, the money will not be returned unutilized.

The learned counsel for the State shall apprise this Court on the next date about the status of the tender likely to be floated for procurement of MRI & CT Scan machine.

**Procurement of Visual Perimeter:**

The Advocates' Committee placed a news item dated 17.12.2024 published in the local Odia daily newspaper in which it is reported that Ophthalmology Department of S.C.B.M.C.H. has received the recognition of Regional Eye Institute, however the Visual Perimeter machine, which costs around Rs.15 lakhs is not functioning since last five years and it needs repair or replacement. Neither any step has been taken for its repair nor is a new Visual Perimeter Machine procured by the authorities. The news item is taken on record.



Professor Dr. Lucy Das submitted on instruction that she has received instruction that tender has been floated for procurement of a new Visual Perimeter Machine twice but the tender has become unsuccessful on account of receipt of single bid and this time, the tender has been floated and it is likely to be materialized and even if it would be a case of single bid this time, necessary permission shall be obtained from the Govt. as it is an essential item and once the Govt. grants permission, there would be no difficulty for its procurement.

Smt. Aswathy S, Health Secretary, Odisha has also assured that the problem relating to non-availability of Visual Perimeter Machine shall be sorted out.

**Plights of attendants of the patients inside the campus of S.C.B.M.C.H., Cuttack:**

The Advocates' Committee brought to the notice of this Court a news item published in the local Odia daily relating to the suffering of the attendants of the patients inside the campus of S.C.B.M.C.H., Cuttack who are sleeping under the open sky in the chilled winter night. Several photographs have been published in the said newspaper showing the suffering of the attendants.



Smt. Aswathy S, Health Secretary, Odisha submitted that she visited different departments of S.C.B.M.C.H., Cuttack on 12.12.2024 and observed that there are lot of efforts made in expanding service for both the patients and their attendants over the years. However, all such steps are found to be inadequate as large number of patients used to come with their attendants to S.C.B.M.C.H., Cuttack everyday. In this respect, a detailed discussion with all the stakeholders of S.C.B.M.C.H., Cuttack including the staff of S.C.B.M.C.H., Cuttack and also various departments like R & B has been made and it requires a new assessment as the land and space happens to be the binding constraint within S.C.B. She also highlighted about the inadequate parking space inside the campus of S.C.B.M.C.H., Cuttack. After the meeting and a detailed discussion with RDC, a multi-departmental team has been formed consisting of staff of S.C.B.M.C.H., Cuttack, R & B, the architect who is already in-charge of redevelopment of S.C.B.M.C.H., Cuttack and also the concerned executing agency and instruction has been given to them to have field visit, demarcate the area and to identify the buildings that currently not in use which can be demolished so that land can be used, to redraw the master plan, find space and



submit proposal at the earliest so that necessary Govt. approval can be taken. She further submitted that since it is a complex issue and it requires coordination and cooperation from everybody, it has been decided that to have a committee under the chairmanship R.D.C., Cuttack and to have a meeting every month so that progress can be monitored, reviewed and in case any additional initiative need to be taken from the Govt. side, it will be taken. She assured this Court that she would personally visit periodically to assess it. She requested the Advocates' Committee to remain present in the next meeting to address this issue in a better way and to find solutions. She submitted that the Govt. is committed to provide lasting solution to the patients and their attendants in the S.C.B.M.C.H., Cuttack.

When a query is made by this Court as to why there is so much of rush in S.C.B.M.C.H., Cuttack even though the Govt. has opened up several medical colleges in the State in the recent times, whether there is lack of infrastructure, doctors, facilities in those hospitals, the Health Secretary stated that there is a referral system, but in some cases there is deviation. She further stated that there is shortage of doctors in the district medical colleges and though there was an advertisement last



time by the Govt. for approximately 7000 doctors, but less than 2000 M.B.B.S. degree doctors could be recruited. The periphery hospitals are not able to provide the required services which they are supposed to provide for which the patients even in non-complicated cases are rushing to S.C.B.M.C.H., Cuttack.

The Health Secretary however stated that the image and the brand value of S.C.B.M.C.H., Cuttack is another key factor and the perception of public over the years that the best of the doctors are posted in this Hospital is also a contributing factor.

This Court expects that the glory of this oldest and one of the largest hospital in the country which was established in the pre-independence era continues to retain its position of eminence.

List this matter on 09.01.2025.

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

**(V. Narasingh)**  
**Judge**

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

226.  
19.12.2024

As per order no.222 dated 12.12.2024, this Court directed the Secretary, Health, Collector,



Cuttack, DCP, Cuttack and Commissioner of CMC to remain present either through V.C/in person to assist this Court in addressing the issue relating to SVPPGIP (Sishu Bhawan).

In compliance of the said direction, Superintendent, SVPPGIP (Sishu Bhawan) filed an affidavit in Court stating therein that in the meeting dated 19.05.2016, the rear gate (Lalbag side) of the SVPPGIP was shut to avoid free entry of unwanted vehicles for the safety of the patients and to reduce the pollution in the hospital campus. The gate has remained closed since then. After the rear gate is opened, necessary arrangements will be made to prevent the use of the internal SVP PGIP road as thoroughfare. The same is taken on record.

Sri Anam Charan Patra, Commissioner, CMC has filed an affidavit in Court stating therein that as per Section 22 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, the Town Vending Committee was constituted in Cuttack Municipal Corporation in the Year-2017 and subsequently the Committee has been reconstituted during the Year-2020 and 2023 as the prescribed tenure of such committee is 03 years. The said Committee is now functioning. With regard to issuance of vending certificates to the vendors



vending in front of and around the rear gate of Sishu Bhawan (Lalbag side), it is stated that no records are traceable in the CMC Office to determine whether vending certificates have been issued or not. It has been ascertained that 24 numbers of vendors are vending on the said site. They were asked to produce their vending certificates. However, out of 24 vendors, 19 numbers of vendors have submitted copies of Identity Cards which are stated to have been issued by CMC on 15.07.2020, which will expire on 14.07.2025.

With regard to closing of the rear gate of Sisu Bhawan (Lalbag side), it is stated that as per records, the rear gate of Sisu Bhawan (Lalbag side) was shut pursuant to the proceedings dated 19.05.2016 of the Sisu Bhawan authorities wherein it was decided that the rear gate is to be kept closed for the safety of patients and to address pollution related issues in the hospital campus. As per Section 38 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, the Odisha Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2015 Scheme has been formulated by the Government in Housing & Urban Development Department and notified in the Odisha Gazette on 06<sup>th</sup> July 2015. Under the said



Scheme, as per Clause 7(1)(b), the vendor shall not obstruct the free movement of pedestrians and traffic in any way. Clause 7(2) empowers the authority to shift the street vendor to other location under exceptional circumstances in the greater interest of the public. Under Section 6(2) of the Act, every street vendor who has been issued certificate of vending under sub-section (1) shall be issued identity cards in such form and manner as may be specified in the scheme.

Mr. Nayak, learned counsel for the C.M.C. has stated that there is no documentary proof relating to the identity cards which have been issued to 19 vendors. The C.M.C. authority is proposing to convene a meeting tomorrow i.e. 20.12.2024 and all the identity cards will be verified and steps in terms of Clause 7(2) of the Odisha Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2015 shall be taken.

The DCP appears through the virtual mode assures this Court that he will take care of the issue relating to obstruction of the rear gate of Sisu Bhawan (Lalbag side).

The decision taken relating to removal of encroachments in and around Sishu Bhawan in the meeting to be held on 20.12.2024 and steps initiated



pursuant to such decision to ensure the safety and security of the doctors, patients, attendants and all the stake holders and measures to ensure that on opening of the rear gate from the Lalbag Police Station side, it will not become a thoroughfare shall be placed before this Court in its next sitting dated 09.01.2025.

### **G+6 Multi-Utility Hospital of SVP PGIP**

In the affidavit filed by the Superintendent, SVPPGIP it has been stated that the plan to make the new G+6 multi utility hospital building functional has been prepared by the R&B, Cuttack on request of the Superintendent, SVP PGIP, Cuttack and this includes record room, blood bank, mortuary, BMW plant, multi-utility centers (ATM, Milk booth, stationary, groceries with parking and toilet facilities), canteen, refresher room for Govt. ambulance driver, laundry, fire brigade room and police outpost, garden cum play area for children. The DMET has been requested to obtain administrative approval of the estimated funds amounting to approximately Rs.7.99 crores under letter no.4259 dated 04.09.2024 of SVP PGIP.



The Commissioner-cum-Secretary, Department of Health and Family Welfare, Ms. Awasthy S., IAS, who appeared virtually, intimated that the issue relating to alienation of land has been resolved and she further stated that DMET, Dr. Santosh Kumar Mishra, who was also present virtually, is taking steps for obtaining the administrative approval of the funds. The attention of this Court was also drawn to grant one year exemption by the Directorate of Fire and Emergency Services, Home Guards and Civil Defence, Odisha from the requirement of submission of building plan for obtaining Fire Safety Certificate.

In view of the above, this Court fervently hopes the Commissioner-cum-Secretary, Department of Health and Family Welfare will take proactive steps in ensuring that the Fire Safety Certificate as well as administrative clearance is obtained at the earliest so that by the next sitting of this Court, a time line can be fixed to make G+6 Multi Utility Hospital and P.G. Hostel Building of SVP PGIP functional.

List this matter on 09.01.2025.

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

**(V. Narasingh)**  
**Judge**



**REMOVAL OF ENCROACHMENTS FROM  
MANGALABAG SQUARE TO ACHARYA HARIHAR  
POST GRADUATE INSTITUTE OF CANCER**

227.  
19.12.2024

As per order No.205 dated 28.11.2024, when a submission was made by Mr. Nayak, learned counsel for the C.M.C. that removal work of all the encroachments over the drain from Mangalabag Square to Acharya Harihar Post Graduate Institute of Cancer has been completed, this Court had asked the learned Advocates' Committee to visit the spot and submit a report.

Learned President of the High Court Bar Association submitted that after the order was passed, the Advocates' Committee visited the particular site and found that there are still some encroachments.

The Commissioner C.M.C. appearing through virtual mode submitted that the encroachments have already been removed.

This Court on earlier occasion had passed an order that in any area if there is re-encroachment after removal of encroachment, the concerned I.I.C. shall be held accountable.

The DCP appearing through virtual mode submitted that he will look into the matter and pass necessary instruction to the I.I.C. of Mangalabag



Police Station and ensure that all the encroachments over the drain from Mangalabag Square to Acharya Harihar Post Graduate Institute of Cancer is removed and compliance report to that effect shall be submitted by the next date.

Let a joint meeting be held of C.M.C. and police officials to address the issue of encroachment/re-encroachment. While taking any consequential steps pursuant to such meeting, if there is any order of any Court which is in vogue regarding such encroachment, the same shall also be duly taken into account.

List this matter on 16.01.2025.

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

**(V. Narasingh)**  
**Judge**