



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

16.01.2025

Order No.

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

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

Procurement of MRI machine for Neuro Surgery

Department of SCBMCH, Cuttack:

234.
16.01.2025

Pursuant to the order no.228 dated 09.01.2025,
an affidavit has been filed by Dr. Poma Tudu, I.A.S.,



Managing Director, OSMCL, which is taken on record. She is also present through virtual mode.

Mr. Bibhu Prasad Tripathy, learned Senior Advocate appearing for OSMCL placed the affidavit, wherein it is mentioned as follows:-

"6. That it is humbly submitted that with regard to the procurement of MRI Machine, the indent for procurement of 03 nos. of 3T MRI Machine has been approved by the State on dt.31.05.2023 under State Budget. Accordingly, the tender for 3T MRI Machine for SCBMCH, Cuttack was floated by OSMCL vide Bid Reference No. OSMCL/2022-23/MRI Scan_SCBMCH Cuttack/08 dated 27.07.2023 which was resulted in Single Responsive Bid and accordingly cancelled. The retender for the said item i.e. 3T MRI Machine (second time) was floated by OSMCL vide Bid Ref. No. OSMCL/2023-24/3T MRI Scan Retender/05 dated 14.07.2023 and the financial bid has already been opened on dated 08.10.2024. The above said retender has again resulted in Single Responsive Bid.

Since the referred retender has resulted in Single Responsive Bid and the value of tender is very high i.e. Rs.89.07 Crs., the Board of Directors in its 40th



meeting on dtd.10.12.2024 vide agenda item no.5 has decided to place all high value single bid items before a high level procurement committee for evaluation and recommendation for approval of next higher authority as per Clause no-204 (xxii) under Chapter-6 (Section-I) of OGFR 2023. The High level procurement committee has already been constituted and meeting will be scheduled in the 1st week of February 2025 to deliberate on the said single bid.

If the High Level Procurement Committee considers and recommends for approval of same, then the estimated timeline for issuance of purchase order for the said item will be by end of February, 2025. Accordingly, the tentative timeline for supply of 3T MRI Machine to SCBMCH, Cuttack will be by end of June, 2025 since the delivery period is 120 days from issuance of purchase order as per tender norms.

That it is further submitted that in the meantime Government of Odisha, H & FW Department has approved the procurement of MRI machine for SCBMCH, Cuttack under CSR initiative of Mahanadi Coalfields Ltd. (MCL) vide Notification No-34983/H&FW on



dt.21.12.2024. If the High Level Procurement Committee considers and recommends for approval of 3T MRI Machine for procurement, then after installation and commissioning of 3T MRI Machine at SCBMCH, Cuttack, the expenditure towards procurement of the same shall be booked under CSR fund of Mahanadi Coalfields Ltd. (MCL) instead of State Budget.”

Dr. Poma Tudu, I.A.S., Managing Director, OSMCL submits that she is the Convener -cum- Head of the High Level Procurement Committee, which is to meet in the first week of February, 2025 to deliberate on the single responsive bid received for MRI Machine and Visual Perimeter.

When we put to a pertinent question to Dr. Poma Tudu that if the Board of Director on 10.12.2024 decided to place the single bid items like MRI Machine and Visual Perimeter before the High Level Procurement Committee since the value of tender is very high and on the very day i.e. 10.12.2024, the High Level Procurement Committee was constituted, then why the meeting was not fixed earlier in view of the exigencies in the procurement of the aforesaid two machines and the meeting was decided to be held in the first week of February, 2025, she has assured this Court to prepone the meeting and to hold it on



27.01.2025. She further stated that she is hopeful that on 27.01.2025, the final decision on the single bid items would be taken.

We also put a pertinent question to Dr. Poma Tudu as to why the tender has resulted in a single bid each time, she stated that it is not a usual type of tender, but to meet the technical specifications given by the experts, there may be one manufacturer who can meet all the technical specifications as required in the tender and that might be the reason why the tender has resulted in a single bid.

She stated that the delay in procurement of the machine even after the purchase order is placed, is that after getting such order, the company starts manufacturing the machines as per technical specifications and it takes about two months' time and after the machines are made ready, for the purpose of transportation, some formalities are required to be undertaken and it is to be installed and that is how one month time is consumed for the said purpose.

However, she assured this Court that she would take expeditious steps to see that on 27.01.2025, the tender is finalized, the order is placed with the respective companies and the machines are installed at SCBMCH, Cuttack at an earliest.

Procurement of CT Scan machine for Cardiology Department, SCBMCH, Cuttack:

Mr. Bibhu Prasad Tripathy, learned Senior



Advocate appearing for OSMCL placed the affidavit, wherein it is mentioned as follows:-

"7. That it is humbly submitted that with regard to the procurement of CT Scan Machine, the indent for procurement of CT Scan Machine (one) has been approved by the State on dt.31.05.2023 under State Budget. Accordingly, the tender for 128 slice CT Scan Machine for SCBMCH, Cuttack was floated by OSMCL twice which resulted in Single Bid participation once & single responsive bid the next time and accordingly cancelled. The retender for 128 slice CT Scan Machine has been floated by OSMCL vide Bid. Ref. No. OSMCL/2023-24/CT Scan Retender_MRI_SCBMCH Cuttack/23 dated 18.11.2023 and the technical evaluation of bid is under process. That, If the retender for the said item is successful, then the tentative timeline for issuance of purchase order for the said item will be by end of February, 2025. Accordingly, the tentative timeline for supply of 128 slice CT Scan Machine to SCBMCH, Cuttack will be by end of June, 2025, since the delivery period is 120 days from issuance of purchase order as per tender norms.

In the meantime, Government of



Odisha, H & FW Department has approved the procurement of CT Scan machine for SCBMCH, Cuttack under CSR initiative of Mahanadi Coalfields Ltd. (MCL) Notification No-34983/H&FW on dt.21.12.2024. If the retender for the above said item is successful, then after installation and commissioning of 128 slice CT Scan machine at SCBMCH, Cuttack, the expenditure towards procurement of the same shall be booked under CSR fund of Mahanadi Coalfields Ltd. (MCL) instead of State Budget.”

Procurement of ECT machine for Mental Health Institute of SCBMCH, Cuttack:

Mr. Bibhu Prasad Tripathy, learned Senior Advocate appearing for OSMCL placed the affidavit, wherein it is mentioned as follows:-

“3. That with regard to the status of procurement of ECT Machine for Mental Health Institute- SCBMCH, Cuttack, it is humbly submitted that the tender for Ultra Brief ECT Machine for MHI- SCBMCH, Cuttack was floated by office of the present opposite party thrice which resulted in Single Responsive Bid each time and accordingly cancelled. The tender for Computerized Ultra Brief ECT Machine (4th time) was floated by



OSMCL vide Bid Ref. No.-OSMCL/2023-24/Psychiatric_EQP/22 on dt.13.03.2024 which resulted in No Responsive Bid and cancelled accordingly. That it is pertinent to mention here that the Technical & Managerial Committee meeting has already been completed on dt.13.01.2025 for finalization of technical specification and commercial terms and conditions for floating of another retender for Computerized Ultra Brief ECT Machine.

The retender for 14 nos. of Computerized Ultra Brief ECT Machine (5th time) has been floated by OSMCL vide Bid Ref. No.OSMCL/24-25/Psychiatric_EQP_ECT/04 on 15th January 2025. If the retender for the same is successful, then the tentative timeline for issuance of purchase order for the said item will be by end of March, 2025. Accordingly, the tentative timeline for supply of Computerized Ultra Brief ECT Machine to MHI-SCBMCH, Cuttack will be by end of June, 2025 since the delivery period is 90 days from issuance of purchase order as per tender."



Procurement of Visual Perimeter for Ophthalmology Department of SCBMCH, Cuttack:

Mr. Bibhu Prasad Tripathy, learned Senior Advocate appearing for OSMCL placed the affidavit, wherein it is mentioned as follows:-

"4. That with regard to the tenders for procurement of Visual Perimeter of Ophthalmology Department, SCBMCH, Cuttack was floated by OSMCL thrice which resulted in Single Responsive Bid once & No Responsive Bid twice and accordingly cancelled. The retender for 11 nos. of Visual Perimeter (4th time) has been floated by OSMCL vide Bid Ref. No-OSMCL/2023-24/Ophthalmic EIF_EQP/16 against which the Technical & Commercial evaluation of bid has already been completed on dated 23.12.2024 and the tender has resulted in Single Responsive Bid.

Since the referred retender has resulted in Single Responsive Bid and the value of tender is very high and approximately Rs.7.00 Crs., the Board of Directors in its 40th meeting on dtd.10.12.2024 vide agenda item no.5 has decided to place all high value single bid items before a high level procurement committee for evaluation and recommendation for approval of next higher



authority as per Clause no.204 (xxii) under Chapter-6 (Section-I) of OGFR 2023. The High level procurement committee has already been constituted and the meeting will be scheduled in the 1st week of February 2025 to deliberate on the said single bid.

If the High Level Procurement Committee considers and recommends for approval of the same, then the estimated timeline for issuance of purchase order for the said item will be by end of February, 2025. Accordingly, the tentative timeline for supply of Visual Perimeter to the Ophthalmology Department of SCBMCH, Cuttack will be by end of May, 2025 since the delivery period is 90 days from issuance of purchase order as per tender.”

Procurement of Echo Machines for patient care, Cardiology Department of SCBMCH, Cuttack:

Mr. Bibhu Prasad Tripathy, learned Senior Advocate appearing for OSMCL placed the affidavit, wherein it is mentioned as follows:-

“5. That the procurement with regard to the Echo Machines for patient care in the Cardiology Department of SCBMCH, Cuttack, it is humbly submitted that OSMCL had floated the tender for two Echo Machines for



Cardiology Department of SCBMCH, Cuttack considering their current requirement vide Bid Ref. No.OSMCL/2023-24/Cardiology-Nephrology-Orthopedics_ EQP/08 on dt.27.07.2023 against which two bids have been received. The Technical & Managerial Committee meeting for technical & commercial bid evaluation of the said tender has already been completed on dt.08.01.2025. As per recommendation of Managerial Committee, clarifications were sought on dt.08.01.2025 from both the participant bidders on commercial terms for submission of requisite documents. After receipt of clarifications from both the participant bidders, the same shall be placed before the Committee for their recommendation & finalization of the tender. That it is humbly submitted that if the tender for the same is successful, then the tentative timeline for issuance of purchase order for the said item will be by end of January, 2025. Accordingly, the tentative timeline for supply of Echo Machines with TEE Probe to the Cardiology Department of SCBMCH, Cuttack will be by end of March, 2025."

Mr. Pitambar Acharya, learned Advocate General appearing through virtual mode submitted that there



would be no hurdle in accepting the single bid if the manufacturer is a reputed one. He further submitted that he would discuss with the concerned officials regarding this issue and apprise this Court on the next date.

List this matter on 30.01.2025.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

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

235.
16.01.2025

As per order no.205 dated 28.11.2024, Mr. Debasish Nayak-A, learned counsel for the C.M.C. files the compliance report of the C.M.C., which is taken on record.

Mr. Nayak, learned counsel for the C.M.C. placed the compliance report, wherein it is mentioned that a joint meeting was held on 13.01.2025 and the encroachments have been removed except due to civil dispute, one encroachment has not been removed.

The President of the Orissa High Court Bar Association is requested to send some members of the Advocates' Committee to visit the spot and submit a report on this aspect on the next date.



List this matter on 30.01.2025.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge

Dumping Yard and MCCs

236.
16.01.2025

A compliance report has been filed by the C.M.C. dated 16.01.2025 wherein it is mentioned that regarding shifting of the dumping yard of Sati Chaura, the same is being used as a temporary Transit Point. The garbage collected from Cuttack City are stacked there for some time and then the same are being transported from the said point to the dumping yard at Chakradharpur. However, the Collector, Cuttack has been requested to provide adequate land for shifting the dumping yard of Sati Chaura.

The President of the High Court Bar Association has ventilated the concern of residents of the area around Micro Composting Centres (MCCs) near Raghunath Jew temple.

Learned Counsel for the CMC, Mr. Debasis Nayak submits that there are 13 MCCs in Cuttack for conversion of garbage into manure pursuant to the State Government policy. One such MCC is operational near the famous Raghunath Jew temple in Telenga Bazaar area of Cuttack city.

It needs no emphasis that an MCC in the middle



of the city, especially in a densely populated locality like Telenga Bazaar is harmful to the health of the public. Constant movement of garbage laden vehicles plying to and from the MCC and foul smell emanating from decaying matter has created an unhealthy environment in the said area which is affecting health and hygiene of the residents of the area which was painstakingly highlighted by the learned counsel who resides in the area during the course of hearing.

This Court, therefore, directs that the Municipal Authorities shall take immediate steps to ensure that no fresh garbage is dumped at the MCC near Raghunath Jew temple effective from 22.01.2025. The authorities shall further ensure that the accumulation of garbage that has already been dumped at the said MCC for composting be disposed of at the earliest, in any case, not later than 27.01.2025. The said MCC should not operate thereafter pending further orders from this Court. Steps shall be taken for relocation of the said MCC so also the dumping yard near Sati Chaura.

Steps in this regard shall be placed on record by 28.01.2025 to be considered in the next sitting on 30.01.2025.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge



MAINTENANCE OF BEAUTY OF TALADANDA CANAL

237.
16.01.2025

When an affidavit has filed by the City Engineer, C.M.C. regarding submission of a detailed project report amounting to Rs.32.00 crores and odd before the Government in H & U.D. Department vide letter dated 23.08.2024 for construction of drain for disposal of waste water -cum- storm water from Urban Hat to Nayabazar into MSWC-I and that it was pending for necessary approval and sanction of the fund for execution of the said work, the learned Government Advocate took time on 30.10.2024 to apprise this Court regarding approval and sanction of the fund for execution of the said work.

However, the learned Additional Government Advocate has not stated anything about the status of approval and sanction of the fund.

Let the Secretary, H & U.D. Department, Odisha file an affidavit in that respect on the next date, which is fixed to 30.01.2025.

News Items

A news item published in local daily dated 15.01.2025 is brought to our notice by the learned Advocates' Committee wherein under the caption of "SUCHANA PHALAKA JEUNTHI, ALIA GADA SEITHI : PRADUSITA HEUCHI TALADANDA CANAL". In the said news item, it is mentioned that the Urban Hat, which is



located in Chhatra Bazar is full of garbage and pungent smell is coming out of it. There used to be parking of vehicles in unlawful manner on the public road, which is leading to traffic congestion. The C.M.C. has failed to shift the garbage stacked in Urban Hat in time and it has resulted in polluting Taladanda Canal. Though some boards have been placed by the Commissionerate Police, Cuttack U.P.D. indicating "No Parking" and also boards have been placed to impose fine on the persons, who are throwing garbage into Taladanda Canal, but no fruitful result has come and the vehicles are parked in front of "No Parking" boards and garbage are dumped on the streets.

Another news item published in local daily has been brought to the notice of this Court under the caption of "TINI MASARE BIGIDIGALA SADHE TINI KOTIRA CHHATRA BAZAR SMART URBAN HAT". Similar news like the previous one has been published wherein it is mentioned how the garbage is creating nuisance in the vicinity.

The D.C.P., Cuttack appearing through virtual mode has assured this Court to take immediate steps in managing traffic in the Urban Hat area and not to allow the vehicles to be parked in front of Urban Hat in such a way to lead traffic congestion and to disturb free movement of vehicles.

Let such steps be taken by the D.C.P., Cuttack from tomorrow onwards.



The Nodal Officer of C.M.C. so also the City Engineer of C.M.C. appearing through virtual mode has assured this Court that garbage would not be allowed to be stacked in front of Urban Hat and also in its vicinity and regular cleaning and sanitation would be done every day number of times so that the persons coming to Urban Hat for different purposes would face no inconvenience.

Let an affidavit be filed by the Nodal Officer of C.M.C./City Engineer of C.M.C. on the next date about the steps taken. Similarly, the D.C.P., Cuttack shall file an affidavit regarding the steps taken for traffic management in the Urban Hat area by the next date.

List this matter on 30.01.2025.

(S.K. Sahoo)
Judge

(V. Narasingh)
Judge