

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No. 491 of 2019 and Batch of Appeals

The State of Odisha and another ***Appellants***

Mr. S.K. Samal, Additional Government Advocate

-versus-

Prakash Chandra Gouda and another ***Respondents***

Mr. Budhadev Routray, Senior Advocate

And

FAO No.509 of 2014

FAO Nos.37 and 799 of 2019,

FAO No.525 of 2020,

FAO Nos.243 & 486 of 2022

FAO No.511 of 2008,

FAO No.360 of 2009,

FAO Nos.221 & 485 of 2011,

FAO Nos.124, 257, 305 of 2012

FAO Nos.590 & 591 of 2015

FAO Nos.10, 239, 259, 316, 374, 405 & 460 of 2016

FAO Nos.43, 59, 70, 78, 82, 83, 84, 90, 164, 309, 310, 324, 332,

345, 372, 373, 385, 391, 401, 402, 408, 435, 437, 441, 443, 451,

452, 453, 456, 461, 462, 463, 474, 475, 476, 478, 487, 490, 491,

499, 500, 513 & 514 of 2017

FAO Nos. 22, 23, 28, 32, 37, 57, 131, 137, 138, 139, 140, 214,

215, 261, 271, 287, 301, 313, 315, 335, 336, 340, 343, 352, 353,

379, 380, 382, 390, 393, 404, 418, 421, 423, 449, 450, 456, 458,

467, 477, 530, 531, 601, 631, 640, 643, 645, 646, 675, 773, 774,

782, 785, 800, 802, 809, 810, 827, 828, 829, 830, 845, 847, 849,

852, 858, 859, 862, 865, 866, 868, 872, 882, 884, 888, 909, 913,

924, 927, 928, 932 and 938 of 2018

FAO Nos. 7, 10, 12, 13, 14, 15, 17, 18, 26, 38, 39, 41, 52, 55, 59,

60, 61, 63, 64, 65, 66, 67, 73, 74, 79, 81, 82, 85, 86, 87, 89, 91,

98, 99, 100, 106, 117, 120, 121, 122, 125, 126, 127, 130, 133,

139, 141, 147, 156, 186, 188, 208, 220, 222, 228, 255, 256, 257,

288, 291, 292, 314, 318, 320, 321, 338, 340, 341, 343, 344, 346,

347, 349, 350, 354, 356, 357, 358, 359, 364, 375, 378, 408, 410,

417, 418, 424, 439, 464, 466, 467, 475, 486, 493, 494, 495, 529,

538, 543, 555, 556, 557, 566, 567, 587, 600, 613, 618, 626, 628,

631, 632, 660, 668, 669, 677, 678, 679, 683, 686, 695, 696, 812, 827, 843, 1013, 1027 & 1041 of 2019

FAO Nos.8, 31, 39, 63, 64, 80, 90, 109, 116, 117, 131, 132, 133, 144, 145, 147, 148, 149, 158, 159, 189, 300, 303, 336, 337, 371, 431, 454, 455, 456, 491, 517, 569, 584, 585, 586, 587, 601, 638, 659, 660, 664, 678, 679, 680, 682, 689, 707, 729, 752, 754 and 755 of 2020

FAO Nos.1, 13, 39, 79, 80, 81, 82, 84, 85, 88, 103, 104, 106 and 157 of 2021

FAO Nos.142, 190, 225, 319, 335, 371 and 372 of 2022

FAO Nos.31, 50, 58, 83, 84, 85, 86, 87, 88, 89,90, 91, 92 and 93 of 2023

Advocates appeared:

Mr. Jayant Kumar Rath, Mr. D.N. Rath, Mr. J. Biswal, Mr. N.K. Sahu, Mr. S. Mohanty, Mr. Sangram Jena, Mr. Mahendra Kumar Sahoo, Mr. S.N. Sharma, Mr. Sameer Kumar Das, Mr. K.K. Swain, Mr. D.K. Mohapatra, Mr. P. Chuli, Mr. P.C. Chhinchani, Mr. S. Pattanaik, Mr. T. Pattanayak, Mr. G.C. Panda, Mr. P.K. Bhuyan, Mr. D.K. Panda, Mr. P.K. Mohanty, Mr. D. Samal, Mr. S.N. Mohapatra, Mr. S.N. Sahoo, Mr. M.K. Pati, Mr. S. Samal, Mr. R.P. Dalai, Mr. B. Parida, Mr. L.K. Mohanty

**CORAM:
THE CHIEF JUSTICE**

ORDER
17.07.2023

Order No.

06. 1. At the outset, Mr. Budhadev Routray, learned Senior Counsel hands over an affidavit dated 16th July, 2023 of Sri Prakash Chandra Gouda, the Respondent No.1 in FAO No.491 of 2019, where *inter alia* two things have pointed out. The first is that there are certain matters are pending in the Supreme Court of India involving the similar question, in

SLPs some of which are by individuals and some by the State Government, in which notice has been issued and final hearing of those SLPs has not yet been taken up. In one such matter, being SLP(C) Diary No.539 of 2021 (*Laxmidhar Dash v. State of Odisha*) and batch, the Supreme Court has directed it to be listed in the fourth week of July, 2023.

2. Secondly, a Division Bench of this Court is seized of certain matters including W.P.(C) No.23502 of 2020 (*Prakash Chandra Gouda v. State of Odisha*) and W.P.(C) No.34769 of 2020 (*Dinabandhu Das v. State of Odisha*) where the vires of the Grant-In-Aid order 2004 (GIA 2004) has been challenged. It is seen from the order dated 24th April, 2023 passed by the Division Bench in W.P.(C) No.34769 of 2020 that the said petition and a batch of analogous matters are part-heard.

3. Mr. Budhadev Routray, learned Senior Counsel submits that the outcome of the above SLPs in the Supreme Court and the writ petitions in this Court would have a bearing on the present batch of appeals and, therefore, this Court should await the outcome of the above proceedings both in the Supreme Court of India and the Division Bench of this Court. On the other hand, Mr. S.K. Samal, learned Additional Government Advocate for the State submits that as of date, the decision of the Supreme Court of India in *State of Odisha v. Anup Kumar Senapati 2019 (19) SCC 626* continues to govern the field. However, he is unable to dispute that the outcome of the pending SLPs in the Supreme Court of India and the pending writ petitions before the Division Bench of this Court, where the vires of GIA 2004 is under challenge, will have a bearing on the present appeals pending in this Court.

4. In that view of the matter, list on 14th August, 2023.

(Dr. S. Muralidhar)
Chief Justice

S. Behera

