

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17691 of 2015 and Batch of Writ Petitions

W.P.(C) No.17691 of 2015

Orissa Trust of Technical Education & Petitioners
Training, Bhubaneswar and another

Mr. Sanjit Mohanty, Senior Advocate along with
Mr. Siba Sankar Mishra, Advocate

-versus-

State of Odisha and others Opposite Parties

Mr. Manoja Kumar Khuntia, AGA for State

W.P.(C) No.9883 of 2018

Orissa Trust of Technical Education & Petitioner
Training, Bhubaneswar

Mr. Sanjit Mohanty, Senior Advocate along with
Mr. Siba Sankar Mishra, Advocate

-versus-

State of Odisha and others Opposite Parties

Mr. Manoja Kumar Khuntia, AGA for State

W.P.(C) No.12362 of 2015

Sudhansu Sekhar Satpathy Petitioner

Mr. S. D. Routray, Advocate

-versus-

State of Odisha and others Opposite Parties

Mr. Manoja Kumar Khuntia, AGA for State

Mr. Sanjit Mohanty, Senior Advocate along with
Mr. Siba Sankar Mishra, Advocate for O.P. No.8

W.P.(C) No.13835 of 2015

Manoj Kumar Padhi ***Petitioner***

Mr. S. D. Routray, Advocate

-versus-

State of Odisha and others ***Opposite Parties***

Mr. Manoja Kumar Khuntia, AGA for State

Mr. Sanjit Mohanty, Senior Advocate along with

Mr. Siba Sankar Mishra, Advocate for O.P. No.8

W.P.(C) No.13836 of 2015

Bimal Chandra Deep ***Petitioner***

Mr. S. D. Routray, Advocate

-versus-

State of Odisha and others ***Opposite Parties***

Mr. Manoja Kumar Khuntia, AGA for State

Mr. Sanjit Mohanty, Senior Advocate along with

Mr. Siba Sankar Mishra, Advocate for O.P. No.9

W.P.(C) No.14889 of 2015

Basanti Nag ***Petitioner***

Mr. S. D. Routray, Advocate

-versus-

State of Odisha and others ***Opposite Parties***

Mr. Manoja Kumar Khuntia, AGA for State

Mr. Sanjit Mohanty, Senior Advocate along with

Mr. Siba Sankar Mishra, Advocate for O.P. No.7

W.P.(C) No.14890 of 2015

Ramesh Nag ***Petitioner***

Mr. S. D. Routray, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Manoja Kumar Khuntia, AGA for State
Mr. Sanjit Mohanty, Senior Advocate along with
Mr. Siba Sankar Mishra, Advocate for O.P. No.7

W.P.(C) No.14891 of 2015

Ajaya Kumar Nayak **Petitioner**

Mr. S. D. Routray, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Manoja Kumar Khuntia, AGA for State
Mr. Sanjit Mohanty, Senior Advocate along with
Mr. Siba Sankar Mishra, Advocate for O.P. No.7

W.P.(C) No.5501 of 2016

Pratima Sahu ★ ★ **Petitioner**

Mr. S. D. Routray, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Manoja Kumar Khuntia, AGA for State
Mr. Sanjit Mohanty, Senior Advocate along with
Mr. Siba Sankar Mishra, Advocate for O.P. No.6

W.P.(C) No.32826 of 2022

Sanjib Meher and others **Petitioners**

Mr. Jagabandhu Sahoo, Senior Advocate
assisted by Ms. Kajal Sahoo, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Manoja Kumar Khuntia, AGA for State
Mr. Sanjit Mohanty, Senior Advocate along with
Mr. Siba Sankar Mishra, Advocate for O.P. No.8

W.P.(C) No.32827 of 2022

Lokanath Meher and others ***Petitioners***

Mr. Jagabandhu Sahoo, Senior Advocate
assisted by Ms. Kajal Sahoo, Advocate
-versus-

State of Odisha and others ***Opposite Parties***

Mr. Manoja Kumar Khuntia, AGA for State
Mr. Sanjit Mohanty, Senior Advocate along with
Mr. Siba Sankar Mishra, Advocate for O.P. No.8

W.P.(C) No.32831 of 2022

Santosh Kumar Pradhan and another ***Petitioners***

Mr. Jagabandhu Sahoo, Senior Advocate
assisted by Ms. Kajal Sahoo, Advocate
-versus-

State of Odisha and others ***Opposite Parties***

Mr. Manoja Kumar Khuntia, AGA for State
Mr. Sanjit Mohanty, Senior Advocate along with
Mr. Siba Sankar Mishra, Advocate for O.P. No. 8

CORAM:
THE CHIEF JUSTICE
JUSTICE G. SATAPATHY

Order No.

ORDER
22.03.2023

I.A. No.2996 of 2023 arising out of W.P.(C) No.17691 of 2015,

I.A. No.2928 of 2023 arising out of W.P.(C) No.12362 of 2015,

I.A. No.2927 of 2023 arising out of W.P.(C) No.13835 of 2015,

I.A. No.2926 of 2023 arising out of W.P.(C) No.13836 of 2015,

I.A. No.2929 of 2023 arising out of W.P.(C) No.14889 of 2015,

I.A. No.2923 of 2023 arising out of W.P.(C) No.14890 of 2015,

I.A. No.2924 of 2023 arising out of W.P.(C) No.14891 of 2015,

I.A. No.2925 of 2023 arising out of W.P.(C) No.5501 of 2016,

I.A. No.2757 of 2023 arising out of W.P.(C) No.32826 of 2022,

I.A. No.2758 of 2023 arising out of W.P.(C) No.32827 of 2022 &

I.A. No.2759 of 2023 arising out of W.P.(C) No.32831 of 2022

22. 1. W.P.(C) Nos.32826, 32827 and 32831 of 2022 are taken up by a separate notice.

2. The above mentioned I.As have been filed by the Petitioners with the similar prayer that the Opposite Parties-State should be directed to permit the Petitioners, which includes the Orissa Trust of Technical Education and Training (hereafter 'Trust') as well as the Entrepreneurs, to run telemedicine nodes as per the Government order dated 7th August, 2012, the Standard Operating Protocol (SOP), the Government orders dated 12th December, 2012 and 22nd April, 2013 as well as the letter of the Chief District Medical Officer (CDMO) of the different districts in light of the judgment dated 15th July, 2019 of the Supreme Court of India in CA Nos.5532-33 of 2019 (*State of Odisha v. Orissa Trust of Technical Education*).

2. The background facts are that pursuant to the Memorandum of Understanding (MoU) entered into in 2008 by the Trust with individual Entrepreneurs in the State of Odisha, the Entrepreneurs were imparted training and were running telemedicine centres. Writ petitions were filed seeking directions to the State to permit the Petitioners to proceed with the "telemedicine project" pursuant to the

Public Private Partnership (PPP) Policy of the Government of Odisha, which had earlier been announced.

3. Initially, in some of the writ petitions, interim orders were passed to the effect that the telemedicine programmes would continue in whichever centres it was being offered. Aggrieved by those interim orders, the State of Odisha filed Civil Appeal Nos.5532 and 5533 of 2019 to the Supreme Court of India. The said appeals were disposed of by the judgment dated 15th July, 2019 of the Supreme Court of India, in which the following directions were issued:

“(i) The restraining orders passed by the High Court preventing the State from reviewing its policy and from formulating an appropriate policy to govern telemedicine centers within the State of Odisha shall stand vacated;

(ii) We leave it open to the State to conduct an appropriate exercise as it deems fit for formulating and implementing an appropriate policy;

(iii) Insofar as the first respondent, namely the original petitioner before the High Court is concerned, we record the assurance of the State which was made on affidavit before the High Court and which has been reiterated in the course of submissions in the present proceedings, that the State shall permit during the pendency of the writ proceedings the first respondent to operate the nodes which are presently in operation and in addition thereto, 27 nodes, pending further orders before the High Court. The State shall, however, verify the exact number of nodes in operation;

(iv) The direction which has been passed in the above terms shall be without prejudice to the rights of the State Government to move the High Court for appropriate modification, should the exigencies of public interest so demand.

We request the High Court to take up Writ Petition (C) No.17691 of 2015 and Writ Petition (C) 9883/2018 for expeditious disposal and to endeavor to do so within a period

of three months from the receipt of a certified copy of this order.

We request the learned Chief Justice of the High Court to take up the matter before a Bench presided over by His Lordship so that finality to the dispute can be effectively made.

We accordingly, set aside the interim order of the High Court dated 10 April 2019. The above order passed by this Court shall now govern the two writ petitions which are pending before the High Court in supersession of all other interim directions. Save and except for the first and second respondents, who have appeared in these proceedings, it has not become necessary to issue notice to the other official respondents.

The appeals are, accordingly, disposed of.”

4. In view of the above orders, the State Government is expected to permit the Trust as well as the Entrepreneurs “to operate the nodes which are presently in operation and in addition thereto 27 nodes pending further orders before the High Court.” It is obvious that the above directions have to be implemented forthwith by the State Government since they were issued by the Supreme Court of India in the appeals filed by the State itself.

5. Consequently, as far as W.P.(C) No.12362, 13835, 13836, 14889, 14890, 14891 of 2015, W.P.(C) No.5501 of 2016 and W.P.(C) Nos.32826, 32827 and 32831 of 2022 are concerned, they all stand disposed of in terms of the above directions of the Supreme Court, which shall be implemented by the State government forthwith.

6. As regards the two writ petitions filed by the Trust i.e. W.P.(C) No.17691 of 2015 and W.P.(C) No.9883 of 2018, these have to be heard finally even in terms of the judgment of the Supreme Court with the interim arrangements being in terms of the said judgment.

7. Accordingly, the following directions are issued:

i. The aforementioned I.As. are all disposed of in view of the above directions;

ii. W.P.(C) No.17691 of 2015 and W.P.(C) No.9883 of 2018 are set down for final hearing on 3rd May 2023, the date already fixed;

iii. W.P.(C) No.12362, 13835, 13836, 14889, 14890, 14891 of 2015, W.P.(C) No.5501 of 2016 and W.P.(C) Nos.32826, 32827 and 32831 of 2022 stand disposed of in light of the directions issued by the Supreme Court in its order dated 15th July, 2019 in Civil Appeal Nos.5532 and 5533 of 2019.

M. Panda

