



ORISSA HIGH COURT : CUTTACK

W.A. No.751 of 2015 (CNR No.ODHC010114022015)

And

W.A. No.752 of 2015 (CNR No. ODHC010430842015)

And

W.A. No.753 of 2015 (CNR No. ODHC010012422015)

And

W.A. No.754 of 2015 (CNR No. ODHC010423852015)

In the matter of an Appeal under Article 4 of
the Orissa High Court Order, 1948
read with

Clause 10 of the Letters Patent constituting
the High Court of Judicature at Patna
and

Rule 6 of Chapter-III and Rule 2 of Chapter-VIII
of the Rules of the High Court of Orissa, 1948

* * *

W.A. No.751 of 2015:

1. Sushant Kumar Sabat .
Aged about 43 years
Son of Goura Chandra Sabat

2. Babita Sabat
Aged about 41 years
Wife of Sushanta Kumar Sabat

Both are resident of
MIG-II, 17/1, BDA Colony
Chandrasekharapur, Bhubaneswar
District: Khordha.

... Appellants
(Petitioners in
the Writ Petition).

-VERSUS-



1. State of Odisha
Represented by
Secretary
The Department of School and
Mass Education, Bhubaneswar.

2. The Collector, Khordha
At/P.O.: Bhubaneswar
District: Khordha.

3. The Headmistress
Phase-I Government High School
Chandrasekharpur, Bhubaneswar
District: Khordha.

... Respondents
(Opposite Parties in
the Writ Petition).

W.A. No.752 of 2015:

1. Yuvaraj Digal .
Aged about 44 years
Son of Bibacha Digal

2. Banita Digal
Aged about 40 years
Wife of Yuvaraj Digal

Both are resident of
Sion Shramika Basti, BDA Colony
Chandrasekharpur, Bhubaneswar
District: Khordha.

... Appellants
(Petitioners in
the Writ Petition).

-VERSUS-

1. State of Odisha
Represented by



Secretary
The Department of School and
Mass Education, Bhubaneswar.

2. The Collector, Khordha
At/P.O.: Bhubaneswar
District: Khordha.
3. The Headmistress
Phase-I Government High School
Chandrasekharpur, Bhubaneswar
District: Khordha. ...

Respondents
(Opposite Parties in
the Writ Petition).

W.A. No.753 of 2015:

1. Prasanna Routray @
Prasanna Kumar Routray .
Aged about 51 years
Son of Nilamani Routray

2. Kuntala Routray
Aged about 46 years
Wife of Prasanna Routray

Both are resident of
LIG-5/43, BDA Colony
Chandrasekharpur, Bhubaneswar
District: Khordha. ...

Appellants
(Petitioners in
the Writ Petition).

-VERSUS-

1. State of Odisha
Represented by
Secretary



The Department of School and
Mass Education, Bhubaneswar.

2. The Collector, Khordha
At/P.O.: Bhubaneswar
District: Khordha.
3. The Headmistress
Phase-I Government High School
Chandrasekharpur, Bhubaneswar
District: Khordha. ...

Respondents
(Opposite Parties in
the Writ Petition).

W.A. No.754 of 2015:

1. Santosh Nayak .
Aged about 40 years
Son of Ainthia Nayak

2. Mina Nayak
Aged about 35 years
Wife of Santosh Nayak

Both are resident of
A/5, Nalco Nagar
Chandrasekharpur, Bhubaneswar
District: Khordha. ...

Appellants
(Petitioners in
the Writ Petition).

-VERSUS-

1. State of Odisha
Represented by
Secretary
The Department of School and
Mass Education, Bhubaneswar.



2. The Collector, Khordha
At/P.O.: Bhubaneswar
District: Khordha.
3. The Headmistress
Phase-I Government High School
Chandrasekharpur, Bhubaneswar
District: Khordha. ... Respondents
(Opposite Parties in
the Writ Petition).

Counsel appeared for the parties:

W.A. Nos.751, 752, 753 and 754 of 2015:

- For the Appellant : M/s. Kishore Kumar Jena,
A.K. Mohapatra and S.N. Das
Advocates
- For the Respondents : Mr. Satyabrata Mohanty,
Additional Government Advocate

P R E S E N T:

**HONOURABLE
MR. JUSTICE MANASH RANJAN PATHAK**

AND

**HONOURABLE
MR. JUSTICE MURAHARI SRI RAMAN**

Date of Hearing : 29.08.2026 :: Date of Order : 02.09.2026

ORDER

These intra-Court appeals bearing W.A. Nos.751, 752, 753 and 754 of 2015 preferred under Clause 10 of the Letters Patent constituting the High Court of Judicature



at Patna read with Article 4 of the Orissa High Court Order, 1948 and Rule 6 of Chapter-III and Rule 2 of Chapter-VIII of the Rules of the High Court of Orissa, 1948 are directed against the Orders dated 23.11.2015 of the learned Single Judge passed in W.P.(C) Nos.9185, 9187, 9189 and 9191 of 2015 respectively.

- 2.** It is stated by counsel that all these appeals arise out of one connected incident and emanate from death due to drowning of students, who were facing debarment from attending school, in canal while taking bath. It is asserted by Sri Kishore Kumar Jena, learned Advocate that the learned Single Judge while disposing of all the writ petitions passed similar orders. In such view of the matter the writ appeals are heard analogously and disposed of by this common order.
- 3.** Material available in W.A. No.751 of 2015 relating to W.P.(C) No.9185 of 2015 is taken as reference to decide these appeals for convenience.
- 4.** The appellants-petitioners, are the parents of late Abhijit Sabat, who was a student of Class-IX of the Government High School, Phase-I, Chandrasekharapur, Bhubaneswar aged about 14 years and expired on 21.10.2014, while he was taking bath in Barang-Puri Canal near Barang Hanuman Batika during school hours. Along with 13



other students he was directed not to come to school by the Headmistress-Respondent No.3.

- 4.1. That the son of the Appellants along with other 13 students of the Government High School, Phase-I, Chandrasekharapur, Bhubaneswar were directed by the Headmistress not to come to the school for a period of 15 days as punishment. Since no intimation in this regard was given to the parents of the students, they were ignorant of such fact of debarment of their ward. These minor students as usual were getting ready for school wearing uniforms but did not attend the classes in school.
- 4.2. On the date of incident, *i.e.*, on 21.10.2014 four students instead of going to school went to the Barang-Puri canal and while taking their bath, they got drowned. These four students expired. An FIR was filed in the Baranga Police Station and it was informed that Abhijit Sabat, aged 14 years along with Pratap Routray, Manas Ranjan Nayak, Buntty @ Bablu Digal while taking bath in the said canal, got drowned and found dead. The Fire brigade staff came to the spot and retrieved the dead bodies.
- 4.3. An investigation was conducted by the Sub-Collector, Bhubaneswar as per the direction of the Collector, Khordha. The said investigation report submitted by the



Sub-Collector, Khordha before the Collector, revealed that due to disturbances created by 14 students in the school premises, they were warned not to attend school for fifteen days from 18.10.2014. The fact of such warning/debarment from school was not intimated to their respective guardians/parents. The Report reveals that students were leaving their respective homes wearing school uniforms from 18th of October, 2014 onwards but were not reaching at school. They moved around after changing their school uniforms in and around Bhubaneswar or nearby places during the school hours and returning to their homes after school hours.

5. Sri Kishore Kumar Jena, learned Advocate would submit that on account of negligence on the part of the School Authorities, particularly the opposite party No.3, Headmistress, by not intimating the fact of punishment of debarment for fifteen days, the parents had no scope to know about such fact. The death of minor students could have been averted had the opposite party No.3 intimated the parents about debarment of the students to school for fifteen days.

- 5.1. It is strenuously submitted that after occurrence of the above incident, the Government of Odisha in School and Mass Education *vide* Notification No.29042— VIII(B)-SME(X)-265/2014/SME, dated 30.12.2014 issued “Guidelines to address student absenteeism at



Secondary Level”, which *inter alia* mandated that if a student remains absent for a period of more than seven days the concerned Class Teacher of the School shall interact with the parents and even after counselling if the student remains absent for ten days, the Headmaster of the concerned school shall visit the parents and counsel them to ensure that the child attends school.

- 5.2. It is further submitted that by Government of Odisha in School and Mass Education Department Notification bearing No.25105— IISME(B)-26/12/SME, dated 01.10.2012 in order to implement the provisions of the Right of Children to Free and Compulsory Education Act, 2009, local authority is vested with duty to function as grievance redressal agency. Drawing attention of this Court to a Letter bearing No.16993— VISME(B) 44/10/SME, dated 23.09.2010 issued by the Department of School and Mass Education it is urged by Sri Kishore Kumar Jena, learned Advocate that the Inspector of Schools and District Inspector of Schools were directed to ensure that “physical punishment and mental harassment to the students are stopped” in the schools under their control and such instruction is not confined to Government Schools only, but the same is extended to all private and public schools. In the said letter it is categorically mentioned that “The Headmasters and



Headmistress of all schools under your jurisdiction may be intimated and well educated about the above provision”.

5.3. It is insisted by the learned counsel that the learned Single Judge having not taken into consideration above such facts and documents issued by the Government in proper perspective simply declined to entertain the writ petition.

6. *Per contra*, Sri Satyabrata Mohanty, learned Additional Government Advocate submitted that the learned Single Judge has examined the issue of compensation as prayed for in the writ petition. It was felt that paucity of material would not suffice to hold the School Authority negligent and as a consequence thereof, determination of quantum of compensation would not be apt.

6.1. Learned Additional Government Advocate has taken this Court to have regard to the orders passed in the instant case.

ORDER DATED 10.02.2021:

“This matter is taken up through video conferencing.

Pursuant to the Order dated 20.01.2021, the learned Standing Counsel for the School & Mass Education Department produced the letter dated 26.02.1993 which reveals that a scheme was operated regarding the safety of the children in the school and the New India Assurance



Company Limited operating the said scheme. The same be kept on record.

The learned Standing Counsel for the School and Mass Education Department shall obtain instruction whether the said scheme is in operation in all the schools or not and file an affidavit to that effect by the next date.

Put up this matter on 26th February, 2021.”

ORDER DATED 26.02.2021:

“Learned Standing Counsel for the School and Mass Education Department submitted that pursuant to the earlier direction regarding implementation of the scheme¹,

¹ Government of Odisha, Department of Higher Education issued Letter No.5965— XIX-EMG-20/92, dated 26.02.1993 addressed to The Director, Higher Education, Odisha/Director, Secondary Education, Odisha/Director, TE & SCERT, Odisha/Registrar, Utkal University, Bhubaneswar/Registrar, Sambalpur University, Sambalpur/Registrar, Berhampur University, Berhampur/Registrar, Jagannath Sanskrit University, Puri with the following text:

“Sub.: Implementation of Students’ Safety Insurance Scheme in Schools and Colleges of the State of Odisha.

Sir,

I am directed to say that during the year 1989-90, Government had decided to adopt the Students’ Insurance Scheme for implementation in Government High Schools and Colleges only. The New India Assurance Company Ltd. has been pioneering the Scheme as early as January, 1989. The Scheme has not made much headway for want of clear cut decision. It was not also decided categorically, if the Scheme should be made compulsory and the type of educational institutions to which the Scheme should be extended and the category of students to be covered.

After careful consideration, Government have now pleased to decide that the ‘Students’ Safety, Insurance Scheme’ shall be implemented in School and Colleges of the State in the following manner:

- (i) The salient features of the Scheme are indicated in Annexure-‘A’.*
- (ii) This Scheme would be compulsory in all Government High Schools, Government Degree Colleges and +2 Junior Colleges.*
- (iii) The Universities may adopt the Scheme, if they so like.*
- (iv) The Managing Body of Private High Schools and Colleges should be impressed upon to introduce this beneficial Scheme in their respective educational institutes and make it compulsory.*
- (v) The New India Assurance Company Ltd. alone shall operate this Scheme throughout the State.*
- (vi) The students’ premium will be Rs.2/- per head per annum.*



ex-gratia amount already paid to the aggrieved parties. He sought for some time to file an affidavit by the next date.

Put up this matter on 26th March, 2021.”

6.2. Sri Satyabrata Mohanty, learned Additional Government Advocate submitted that an affidavit dated 25.03.2021 sworn to by the Director, Secondary Education, Odisha pursuant to direction of this Court has been filed with the following material particulars:

“3. *That, the School Student Safety Insurance Scheme as per Higher Education Department Letter No. 5965, dated 26.02.1993 was in force at that time. As the deceased student was covered under the said Scheme, the claim was settled for an amount of Rs.10,000/- (Ten thousand only). **This amount was disbursed to the next of the kin of the deceased student** vide Reference No. 550001/CH-2015/211, dated 06.08.2015 of the Manager, New India Assurance Company Ltd.*

4. *Subsequently, Government vide Notification No.6224/SME dated 25.03.2015 with partial*

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- (vii) *The Principal of the Colleges and Headmasters of High Schools shall collect the amount for each student at the time of admission and keep a separate account of such collection.*
- (viii) *The amount so collected from the students shall be deposited through Bank Draft by the concerned Principals/Headmasters with the ‘the New India Assurance Company Ltd., Bhubaneswar Branch, At: A-158, Sahid Nagar, Bhubaneswar.*
- (ix) *In case of any doubt in regard to the implementation of this Scheme, the Development Officer/Branch Manager, ‘The New India Assurance Company Ltd., Bhubaneswar may be consulted by referring the matter for necessary clarification, if any.*
- (x) *All out efforts may be made to cover all the students under the Scheme in their interest.*
2. *Suitable instruction may please be issued to all concerned for implementation of this Scheme compulsorily.”*
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modification of the Higher Education Department Letter No.5965 dated 26.02.1993 on Students Safety Insurance Scheme introduced the Payment of ex-gratia grant for students from Student Welfare Fund with effect from 01.04.2015.

5. *That it is pertinent to mention here that while Students Safety Insurance Scheme required payment of premium by the students and the compensation amount was only Rs.10,000/-, in case of the new scheme, i.e., ex-gratia grant for students from Student Welfare Fund the amount payable in case of death of a student is Rs.2,00,000/- if a student met with accidents in the schools or while travelling to and from the schools and when involved in school related activities. The Scheme being effective from 01.04.2015², the instant death case having occurred on 21.10.2014 could not be covered under the Scheme.*

10. *That while hearing the Writ Appeal in WA No.751 of 2015 on 26.02.2021, on the basis of submission by the Counsel for State, the Hon'ble High Court was kind enough to allow some time to file affidavit regarding payment of compensation to the aggrieved parties. In this connection, it is brought to the kind notice of this Hon'ble Court that the fact regarding payment of compensation to the aggrieved parties has been mentioned in para 5 of this affidavit. **Further it has also been reported by the District Education Officer that a sum of***

² The Scheme called "Payment of ex-gratia grant for students from Student Welfare Fund" was introduced by Government of Odisha in School and Mass Education Department *vide* Notification No.6224— V-SME(P)-12/2015, dated 25.03.2015, which is made effective from 01.04.2015.



Rs.1,00,000 has been sanctioned by Government to the parents and a sum of Rs.10,000/ has been sanctioned by Collector, Khorda from District Red Cross fund.”

6.3. It is, therefore, impressed upon by the learned Additional Government Advocate that in view of aforesaid factual position, the writ appeal is liable to be dismissed as the compensation has already been sanctioned in favour of the appellants.

7. Heard Sri Kishore Kumar Jena, learned Advocate for the appellants and Sri Satyabrata Mohanty, learned Additional Government Advocate.

8. Relying on the decision of this Court rendered in the case of *Jambeswar Naik Vrs. State of Odisha, 2021 (III) ILR-CUT 186* it is submitted by Sri Kishore Kumar Jena, learned Advocate that provisions of the Right of Children to Free and Compulsory Education Act, 2009, makes it clear that the right to life and the right to education of children encompasses all elements that comprise the receiving of education in a healthy and safe environment. There is a corresponding duty and responsibility of the State on a collective reading of Articles 45 and 21 of the Constitution of India to make necessary arrangements for early childhood care and education for all children till they attain the age of six years and to prepare children above three years for



elementary education. Taking cue from said decision, it is submitted that the debarment of minor children to attend the school without intimating the parents led the unfortunate incident to happen. Since State failed to protect the life and provide safe environment, the appellants-petitioners are entitled to compensation. The reliance on *Jambeswar Naik Vrs. State of Odisha, 2021 (III) ILR-CUT 186* is misplaced inasmuch as said reported judgment proceeded on the basis of casualty that occurred in the premise of Anganwadi Centre. The distinctive feature in the said case can be perceived in the following paragraph of said decision which is to the following effect:

“When the children failed to return after the AWC closed, the petitioners tried to search for them. They learnt that the bodies of the two children were found by the students of the school in the waterlogged pits excavated in the premises of the school.”

In the present case, the students of around fourteen years reading in Class-IX are alleged to left their respective homes wearing school uniforms, but they did not reach at the school premise. It is the case of the appellants-petitioners that on and from 18.10.2014 till the date of incident, *i.e.*, 21.10.2014 the students though came out of their homes for going to school, instead of reaching at the school, they had been to canal “to take their bath”. It is, therefore, not understood as to



how the School Authorities can be blamed for their not reaching at the school. The pleadings fall short of the fact that the students/wards of the appellants-petitioners were coming to school and going back from school from and to their respective homes by arrangements made by the school. On the contrary the parents never enquired from the School Authorities as to whether their wards reached school. It is not forthcoming from the Report of the Sub-Collector, Bhubaneswar (Annexure-6 to the writ petition) that there was any written notice of debarment issued by the School Authorities. It seems the Sub-Collector assumed the negligence of the School Authorities from the attendance register simply on the basis of non-attendance of the students. The Sub-Collector merely perusing attendance register could not have formed the opinion against the Authorities of the school. The learned counsel for the appellants-petitioners could not place on record iota of evidence to indicate that non-attendance of any of the students is liable for reporting to the school authorities. This Court is taken to have reference to a Notification dated 30.12.2014 issued by the School and Mass Education Department which relates to dropping out of the students in High Schools. Said notification requires the Class Teacher to report the fact of non-attendance of the students to the parents in case any student remains absent continuously for a



period of seven days and if after ten days, a child does not come to school, the Headmaster of the concerned school is required to visit parents' house and interact with the child and parents and counsel to ensure that the child attends the school. It transpires from records in the instant case that the students did not attend the school from 18.10.2014 and the incident occurred on 21.10.2014. Therefore, it would not be within the parameters of the notification to attribute liability or responsibility on the Headmistress for having not communicated the fact of non-attendance to the parents.

8.1. Another significant difference can be noticed in the instant case is that for safety of students the Department of Higher Education floated the "Students' Safety Insurance Scheme" *vide* Letter No.5965—XIX-EMG-20/92, dated 26.02.1993. There was no dispute or contrary material placed by the counsel for the petitioner against the assertion of the Director, Secondary Education that in addition to Rs.10,000/- sanctioned by Collector, Khordha from District Red Cross Fund, the appellants-petitioners were sanctioned with a sum of Rs.1,00,000/- by the Government. Therefore, the case laws relied on by Sri Kishore Kumar Jena, learned Advocate are wholly inapplicable to the fact-situation of the present case.



8.2. There is no clear evidence whether any punishment of debarment was inflicted by the opposite party No.3. The enquiry report dated 22.10.2014 stated to have been prepared by the Sub-Collector, Bhubaneswar and the District Education Officer does not demonstrate that the statement of the Headmistress was taken. The report only shows in course of enquiry the statement of some accompanying students and guardians were collected and “statements of students attached”. It does emanate from the Order dated 23.11.2015 passed in writ petitions that absence of documents would not lead to believe that the respondents were negligent in their duty. The disputed questions of fact could not be considered under the writ jurisdiction. The learned Single Judge further having taken note of Notification issued by the School and Mass Education Department made it clear that Section 32 of the Right of Children to Free and Compulsory Education Act, 2009 came to conclude that modality has been provided therein for redressal of grievances relating to rights of a child by the Local Authority. For effective implementation of the provisions and objectives of the said Act, the State Government has designated the District Inspector of Schools as the Local Authority in respect of the Elementary Schools belonging to a Education District. Therefore, the learned Single Judge having not entertained the writ petition, granted



liberty to the appellants-petitioners to approach the proper authority to ventilate their grievances.

8.3. Having taken into consideration the documents enclosed with the writ appeal and the affidavit filed by the Director Secondary Education affirming the fact that the compensation amounts had already been sanctioned, this Court finds no infirmity or illegality in the impugned Orders.

9. In the wake of above discussions, the writ appeals, being devoid of merit, are dismissed and Interlocutory Application(s), pending if any, shall also stand dismissed. However, in the circumstances, there shall be no order as to costs.

(MANASH RANJAN PATHAK)
JUDGE

(MURAHARI SRI RAMAN)
JUDGE

Signature
Not Verified

Digitally Signed
Signed by: ASWINI
KUMAR SETHY
Designation: Personal
Assistant (Secretary in-
charge)
Reason: Authentication
Location: ORISSA HIGH
COURT, CUTTACK
Date: 02-Sep-2026
18:52:22

High Court of Orissa, Cuttack
The 02nd September, 2026//Aswini/Laxmikant