

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMP No.1286 of 2022

Sumitra Moharana

....

Petitioner

*Mr. B.R. Behera,
Advocate*

-versus-

State of Odisha & others

....

Opp. Parties

*Mr. D. Nayak,
Additional Government Advocate*

**CORAM:
JUSTICE BISWAJIT MOHANTY**

**ORDER
08.07.2022**

Order No.

01. 1. Heard Mr. Behera, learned counsel for the petitioner and Mr. Nayak, learned Additional Government Advocate.
2. On oral prayer, Mr. Behera is permitted to correct the description of opposite party No.2 in the cause title in Court today.
3. According to Mr. Behera, the petitioner, who happens to be a lady is aggrieved by the non-disposal of her application dated 20.06.2022 filed under the Witness Protection Scheme, 2019 which was sent through speed post to the Member Secretary of the Competent Authority constituted under the Witness Protection Scheme for the district of Puri. According to him as per the tracking report such application was delivered to the Member Secretary on 21.06.2022. In this context, he draws the attention of this Court to Clause-6 of the Witness Protection Scheme, 2019 which provides the procedure for processing the application which is quoted hereunder:

“6. Procedure for processing the application :—(1) As and when an application is received by the Member Secretary of the Competent Authority, in the prescribed form, it shall

forthwith pass an order for calling for the Threat Analysis Report from the Assistant Commissioner of Police / Deputy Superintendent of Police in charge of the concerned Police Subdivision.

(2) Depending upon the urgency in the matter owing to imminent threat, the Competent Authority can pass orders for interim protection of the witness or his family members during the pendency of the application.

(3) The Threat Analysis Report shall be prepared expeditiously while maintaining full confidentiality and it shall reach the Competent Authority within five working days of receipt of the order.

(4) The Threat Analysis Report shall categorize the threat perception and also include suggestive protection measures for providing adequate protection to the witness or his family.

(5) While processing the application for witness protection, the Competent Authority shall also interact preferably in person and if not possible through electronic means with the witness and/or his family members or employers or any other person deemed fit so as to ascertain the witness protection needs of the witness.

(6) All the hearings on Witness Protection Application shall be held in-camera by the Competent Authority while maintaining full confidentiality.

(7) An application shall be disposed of within five working days of receipt of Threat Analysis Report from the Police Authorities.

(8) The Witness Protection Order passed by the Competent Authority shall be implemented by the Witness Protection Cell of the State or the Trial Court, as the case may be. Overall responsibility of implementation of all witness protection orders passed by the Competent Authority shall lie on the Head of the Police in the State. However, the Witness Protection Order passed by the Competent Authority for change of identity and/or relocation shall be implemented by the Department of Home of the State.

(9) Upon passing of a Witness Protection Order, the Witness Protection Cell shall file a monthly follow-up report before the Competent Authority.

(10) In case, the Competent Authority finds that there is a need to revise the Witness Protection Order or an application is moved in this regard, and upon completion of trial, a fresh Threat Analysis Report shall be called from the Assistant Commissioner of Police/Deputy Superintendent of Police in-charge of the concerned Police Subdivision."

Accordingly, he prays that a direction be issued to the Competent Authority to dispose of witness protection application of the petitioner within a specific time period.

4. Considering the submissions made and without expressing any opinion on the merits of the case, this Court

directs the Competent Authority under the Witness Protection Scheme, 2019 constituted for the district of Puri to make all endeavours to dispose of the above noted application in accordance with law within a period of ten days from the date of receipt of a certified copy of this order.

5. Accordingly, this CRLMP is disposed of.

6. Urgent certified copy of this order be granted on proper application.

(Biswajit Mohanty)
Judge

Prasant

