

IN THE HIGH COURT OF ORISSA AT CUTTACK
CONTC No.2083 of 2019

Kailash Chandra Mishra & Others ***Petitioners***
Mr. Sameer Kumar Das, Advocate

-versus-

Premananda Choudhury, IAS, ***Opposite Party***
Commissioner, Bhubaneswar
Municipality corporation

Mr. Niranjana Panda-1, Advocate

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)

14.07.2022

Order No.

- 05.**
- 1.** This matter is taken up by virtual/physical mode.
 - 2.** This contempt petition arises out of W.P.(C) No. 11324 of 2019 disposed of by this Court vide order dated 5th August, 2019.
 - 3.** Alleging non-consideration of representation of the Petitioners by the Bhubaneswar Municipal Corporation-Opposite Party No.5 to the writ petition within the periods specified in the aforesaid order of this Court, the Petitioners sought to draw up contempt proceeding against Mr. Premananda Choudhury, IAS, Commissioner, Bhubaneswar Municipal Corporation.
 - 4.** This Court vide order dated 5th August, 2019 while disposing of W.P. (C) No. 11324 of 2019 passed the following order:-

“Heard learned counsel for the Petitioners.

By way of this writ petition, the Petitioners have prayed for the following reliefs:

“Under the above circumstances it is therefore humbly prayed that this Hon’ble Court be graciously pleased to direct the Opposite Party No.5 to divert the drain of Azad Nagar and Bhohi Sahi under ward No.67 to a different direction and not allow water logging in the residential area of the Petitioners;

“Further the Hon’ble Court be please to direct the State Government, BDA and the Pollution Control Board to take effective steps to extend the civic amenities to the Petitioners on order to lead them a healthy life;

And/or issue any other appropriate writ/writs, order/orders, direction/directions as deem fit and proper in the fitness of the case.”

During course of hearing, learned counsel for the Petitioners states that the Petitioners have filed representations to the Bhubaneswar Municipal Corporation-Opposite Party No.5 vide Annexure-3 series which are pending for consideration. Hence, he prays for a direction for early disposal of such representations.

Considering the limited nature of grievance and without expressing any opinion on the merits of the case, the writ petition is disposed of with a direction to the Bhubaneswar Municipal Corporation-Opposite Party No.5 to consider and dispose of the representations of the Petitioners vide Annexure-3 series in accordance with law within a period of six weeks from the date of receipt of a certified copy of this order, if the same are still pending.”

5. This Court issued notice vide order dated 21st December, 2021 to the Contemnor as afore-mentioned.

6. When the matter is taken up today, Mr. Niranjana Panda-1, counsel appears for Contemnor submitted that the show cause and

compliance affidavit has been filed on 22nd June, 2022 before this Court.

7. Paragraph 4 and 5 of the said affidavit reveals the following:-

“4. That the representation dated 26.06.2018 of the Petitioner (Annexure-3 in the writ petition) relates to construction of drain in Azad Nagar/Ebarang area which does not come within the Bhubaneswar Municipal Corporation area. The same rather comes under the Bhubaneswar Block.

5. That in the meantime, the representation of the Petitioners has been considered and disposed of on merit vide BMC Order No-23573 dated 2nd May, 2022. The said order has been communicated vide memo No-23574 dated 02.05.2022 to the Petitioner No-1.”

8. The Contemnor-Commissioner, Bhubaneswar Municipal Corporation while disposing of the representation as directed by this Court in the aforesaid writ petition passed the following order vide No.23573 dated 2nd May, 2022:-

“Whereas, the Hon’ble High Court without expressing any opinion on the merits of the case in W.P. (C) No. 11324/2019 filed by Kailash Chandra Mishra and others, passed order dtd.05.08.2019 with a direction for consideration or grievance/representation of the Petitioners in accordance with law:

And Whereas, the Petitioners have also alleged for non-disposal of representation in CONTC No. 2083/2019 by the Ex-Commissioner, BMC.

And Whereas, on perusal of copy of the representation dtd.26.06.2018 (Annexure-3 of the writ petition) submitted by the President & Secretary of BJB College Employees House Building Co-operative Society (Mouza-Ebarang), it reveals that in their locality the inhabitants of the Society

have been suffering due to water logging problem. And Whereas, field enquiry was conducted in Azad Nagar & Ebarang area on 06.01.2021 by the Drainage Division, BMC. It was reported that the concerned area does not come within the jurisdiction of Bhubaneswar Municipal Corporation. More over the houses have been built up in private land without proper drainage system.

And Whereas, by order of VC, BDA, again a joint inspection was made on dtd.31.07.2021 by the City Engineer, BMC, Executive Division-1, BDA, Chief Construction Engineer Central (R&B) Circle, Chief Engineer (DPI & Roads) and EIC-cum-Engineer member, BDA. They reported that the concerned area are being developed by the Private Builders and other individuals without proper planning for disposal of rainwater as a result of which the area is waterlogged during rainy season. C.C. Roads and drains have been constructed in the area which comes within the jurisdiction of BMC. But no drain has been constructed in the area outside the BMC area i.e., under Bhubaneswar Block.

And Whereas, the matter was intimated by the Secretary, BDA to Block Development Officer, Bhubaneswar vide his Letter No.32032 dtd.15.09.2021 intimating therein that the BDO, Bhubaneswar may take suitable action at his end as suggested by the joint inspection team. The City Engineer, BMC has also communicated to BDO, Bhubaneswar vide his Letter No-48052 dtd.04.06.2021 requesting therein for taking necessary steps at their end in the said locality to solve the water logging issue for the larger interest of the people.

And whereas, the Executive Engineer, BMC has submitted a note on 12.04.2022 that there is a natural gradient from North to South and as per the joint inspection report dtd.31.07.2021, suggestion has been given to BDO, Bhubaneswar to develop the drainage system as the waterlogging area as mentioned above is coming under Bhubaneswar Block.

And Whereas, with the aforesaid conclusions as suggested by the joint Inspection Committee vide their report dtd.31.07.2021, the representations of the Petitioners are hereby accordingly disposed off.”

9. In view of the compliance affidavit being filed by the Contemnor indicating disposal of the representation, this Court finds no deliberate violation of not complying with the order of this Court within time stipulated.

10. Accordingly, this Court does not warrant to proceed any further in the matter of contempt and the contempt proceeding is hereby dropped. The contempt petition is dismissed.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikant

July 14th, 2022 Cuttack

