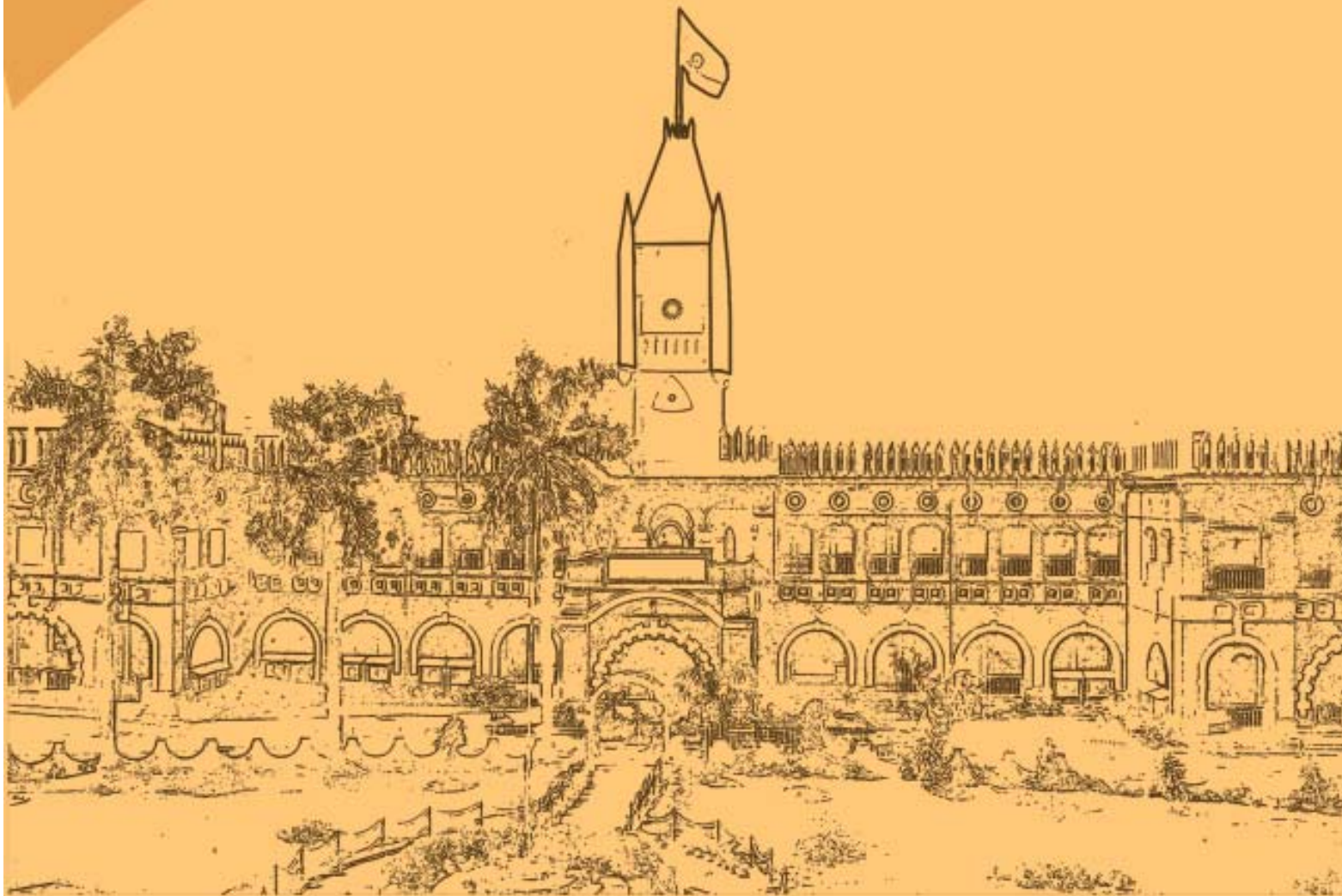




COURT NEWS

April - June, 2009

- . Recent High Court Judgements
- . Appointment / Retirement
- . Activities of O.J.A / O.S.L.S.A / H.C.L.S.C and in N.J.A
- . Institution / Disposal / Pendency



ISSUE NO. VIII

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Orissa High Court



**Farewell to Hon'ble Dr. Justice B.S. Chauhan, Chief Justice, Orissa High Court
on His Lordship's elevation to the Supreme Court of India.**

Seminar on "State Cooperation Dialogue with regard to implementation of Orissa Building and Other Construction Workers (Regulation of Employment & Condition of Service) Act, 1996". On 02.05.2009



Hon'ble Dr. Justice Arijit Pasayat, the then Judge Supreme Court of India, Hon'ble Dr. Justice B.S. Chauhan, Chief Justice, Orissa High Court, Hon'ble Shri Justice I.M. Quddusi, Hon'ble Shri Justice P.K. Tripathy, Judges of Orissa High Court, Shri A.K. Tripathy, Chief Secretary, Orissa and Shri Jagar Singh, Principal Secretary, Labour & Employment Department attending the Seminar on 2.5.2009

Seminar on "Competition Law : Challenges & Answers" on 22.6.2009



Hon'ble Dr. Justice Arijit Pasayat, the then Judge, Supreme Court of India and Executive Chairman, National Legal Services Authority, Sri Naveen Patnaik, Hon'ble Chief Minister, Orissa, Hon'ble Sri Justice I.M. Quddusi, Acting Chief Justice, Orissa High Court, Hon'ble Dr. M.Veerappa Moily, Hon'ble Union Minister, Law & Justice, Sri Sarada Prasad Nayak, Hon'ble Minister, Food & Supplies Department, Sri Gopal Krishna Mohanty, Chairman, Orissa State Bar Council, and Sri S.N. Sahu, President, All Orissa Tax Bar Association attending the Seminar on 22.06.2009.

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Editorial Board

Hon'ble Shri Justice P.K.Tripathy
Hon'ble Shri Justice L.Mohapatra
Hon'ble Shri Justice I.Mahanty



I.M.QUDDUSI
Acting Chief Justice



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July 21, 2009

FROM THE DESK OF THE ACTING CHIEF JUSTICE

I am very happy that the Eighth Issue of the Court News containing vital information about this Court during the last quarter ending 30th June, 2009 is going to be released shortly. Publication of the Court News is aimed at keeping the public and litigants abreast of the happenings and latest developments in the State Judiciary as well as the High Court of Orissa.

The last quarter was very eventful. The former Chief Justice of this Court Hon'ble Dr. Justice B.S.Chauhan was elevated to the Hon'ble Apex Court. A Seminar on "Competition Law: Challenges and Answers" was organized in the New Conference Hall of Orissa High Court which was inaugurated by the Hon'ble Chief Minister of Orissa. Dr. M.Veerappa Moily, Hon'ble Union Minister of Law & Justice and Hon'ble Dr. Justice Arijit Pasayat, the Chairman of the Competition Appellate Tribunal, attended the Seminar as Chief Guest and Chief Speaker respectively. Sri Sarada Prasad Nayak, Hon'ble Minister, Food, Supplies and Consumer Welfare, Government of Orissa and Shri Dharendra Kumar, Chairman Competition Commission of India, also participated in the Seminar. Many experts in the field took part in the deliberation on various aspects of the Competition Law.

During the period under report, two Courts of Civil Judge (Senior Division), one at Kodala and another at Khallikote, were opened and also a new Civil Court Building was inaugurated at Khariar by the then Chief Justice Dr. B.S.Chauhan, now Judge, Supreme Court of India.

I am sure the Newsletter will continue to provide valuable information about the State Judiciary for the benefit of general public and those involved in the process of dispensation of justice.

(I.M.QUDDUSI)



Hon'ble Dr. Justice B.S. Chauhan, Chief Justice, Hon'ble Shri Justice R.N. Biswal & Hon'ble Shri Justice B. N. Mahapatra, Judges of Orissa High Court attending the Inaugural Function of the Court of Civil Judge (Sr. Division), Khallikote on 4.4.2009



Hon'ble Dr. Justice B.S. Chauhan, Chief Justice, Hon'ble Shri Justice R.N. Biswal & Hon'ble Shri Justice B. N. Mahapatra, Judges of Orissa High Court attending the Inaugural Function of the Court of Civil Judge (Sr. Division), Kodala on 4.4.2009



Hon'ble Shri Justice I.M. Qudusi, Acting Chief Justice, Hon'ble Shri Justice B.P. Das, Judge Orissa High Court, Shri M.M. Praharaj, IPS, DG & IG of Police, Orissa, Shri Ashok Mohanty, Advocate General, Orissa and Shri B.K. Sharma, IPS Commissioner of Police attending the Inaugural Function of the Court of Executive Magistrate at Cuttack on 20.06.2009

HON'BLE JUDGES OF THE ORISSA HIGH COURT

HON'BLE THE ACTING CHIEF JUSTICE

Hon'ble Shri Justice I.M.Quddusi, LL.B

HON'BLE JUDGES

Hon'ble Shri Justice P.K. Tripathy, M.A., LL.B.

Hon'ble Shri Justice B.P. Das, M.A., LL.B.

Hon'ble Shri Justice L. Mohapatra, B.Sc., LL.B.

Hon'ble Shri Justice A.S. Naidu, B.Sc., LL.B.

Hon'ble Shri Justice Pradip Kumar Mohanty, LL.B.

Hon'ble Shri Justice S.R. Singharavelu, B.Sc., B.L.

Hon'ble Shri Justice M.M. Das, M.A., LL.B.

Hon'ble Shri Justice R.N. Biswal, M.A., LL.M.

Hon'ble Shri Justice I. Mahanty, LL.M.

Hon'ble Kumari Justice Sanju Panda, B.A., LL.B.

Hon'ble Shri Justice B.N. Mahapatra, M.A., LL.B., PGDTL.

Hon'ble Shri Justice B.P. Ray, LL.B.

Hon'ble Shri Justice S.C. Parija, LL.B.

Hon'ble Shri Justice L.K. Mishra, M.A., LL.M.

Hon'ble Shri Justice B.K. Patel, M.A., LL.B.

Elevation of Hon'ble the Chief Justice, Orissa High Court to Supreme Court of India.

Name of the Hon'ble Judge	Date of Birth	Date of appointment as Chief Justice of Orissa High Court	Date of appointment as Judge of the Supreme Court of India
Hon'ble Dr. Justice Balbir Singh Chauhan	2.7.1949	16.7.2008	11.5.2009

Appointment as Acting Chief Justice

Name of the Hon'ble Judge	Date of Birth	Date of Appointment as Judge of Orissa High Court.	Date of appointment as Acting Chief Justice of Orissa High Court
Hon'ble Shri Justice Ishrat Masroor Quddusi	18.06.1950	06.12.2004	11.5.2009

NAMES OF HON'BLE JUDGES OF ORISSA HIGH COURT PARTICIPATING PROGRAMMES/ COURSES AT THE N.J.A., BHOPAL AND OTHER PLACES

Sl. No.	Names of the Hon'ble Judges	Period	Topics
1.	Hon'ble Shri Justice I.M.Quddusi Acting Chief Justice	16.5.2009	Attend Seminar on "Right to Education" at Vigyan Bhavan, New Delhi.
2.	Hon'ble Shri Justice P.K.Tripathy	16.5.2009	Attend Seminar on "Right to Education" at Vigyan Bhavan, New Delhi.
3.	Hon'ble Shri Justice M.M.Das	25.4.2009 & 26.4.2009	Participate the National Conference of High Court Justices on Poverty, Alleviation, Social Justice and Law ; Role & Responsibility of Courts at N.J.A, Bhopal
4.	Hon'ble Shri Justice B.K.Patel	9.5.2009 & 10.5.2009	Attend the National Conference of High Court Justices on Use of International and Foreign Law by Indian Courts ; Current Development and Key Issues at N.J.A, Bhopal

**SANCTIONED STRENGTH & VACANCIES IN HIGH COURT
(As on 30.6.2009)**

Sanctioned Strength	Working Strength	Vacancies
$17 + 5^* = 22$	$14 + 2^* = 16$	$3 + 3^* = 6$

(A)* Addl. Judges

(B) Two Hon'ble Judges of this Court have been transferred to other High Courts and two Hon'ble Judges of other High Courts have come on transfer to this High Court.

**INSTITUTION, DISPOSAL AND PENDENCY OF CASES IN THE HIGH COURT
(From 1.4.2009 to 30.6.2009)**

MAIN CASES

Pendency as on 1.4.2009		Institution during the period		Total disposal during the period		Pendency as on 30.6.2009	
Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal
109273	23480	5627	6408	5355	5199	109545	24689

MISC. CASES

Pendency as on 1.4.2009		Institution during the period		Total disposal during the period		Pendency as on 30.6.2009	
Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal
109875	518	4921	2309	3676	1935	111120	892

**TOTAL NO. OF CIVIL & CRIMINAL CASES DURING THE PERIOD
(From 1.4.2009 to 30.6.2009)**

	Opening Balance	Institution	Disposed of	Pending
Civil	219148	10548	9031	220665
Criminal	23998	8717	7134	25581

**SANCTIONED STRENGTH & VACANCIES
IN
DISTRICT AND SUBORDINATE COURTS**

(A) **DISTRICT & SUBORDINATE COURTS**

(As on 30.6.2009)

(Regular Establishment)

Sl. No.	Category of Posts	Sanctioned Strength	Working Strength	Vacancies
1.	District Judge including Additional District Judge	98	86	12
2.	Civil Judge (Sr. Divn.)	134	119	15
3.	Civil Judge (Jr.Divn.) & Magistrates	286	219	67
4.	Special Judicial Magistrates	18	14	04

(B) **FAST TRACK COURTS**

(As on 30.6.2009)

Functional Strength	Present Strength	Vacancies
35	33	2

**STATEMENTS SHOWING INSTITUTION, DISPOSAL & PENDENCY OF
CIVIL & CRIMINAL CASES IN THE SUBORDINATE JUDICIARY
FROM 1.4.2009 TO 30.6.2009**

Name of the Judgeship	CIVIL SUITS				CIVIL APPEALS				CIVIL MISC. APPEALS			
	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009
Balasure	19726	705	525	19906	1670	51	37	1684	1047	28	51	1024
Bolangir	2704	112	149	2667	594	21	19	596	132	15	14	133
Cuttack	20688	1015	553	21150	1345	87	55	1377	764	94	91	767
Dhenkanal	3746	327	166	3907	360	12	21	351	89	20	12	97
Ganjam	4359	155	224	4290	637	45	26	656	220	17	20	217
Kalahandi	1537	85	81	1541	262	13	19	256	74	02	05	71
Keonjhar	1025	105	80	1050	142	22	23	141	42	05	14	33
Khurda	12880	692	328	13244	641	44	11	674	511	21	23	509
Koraput	1137	110	342	905	248	17	23	242	119	03	16	106
Mayurbhanj	4538	252	223	4567	300	17	28	289	98	10	12	96
Phulbani	359	43	22	380	131	04	26	109	33	03	07	29
Puri	6313	360	299	6374	1070	37	54	1053	548	34	30	552
Sambalpur	4280	159	157	4282	363	32	23	372	78	14	10	82
Sundargarh	1165	119	54	1230	385	12	11	386	101	05	07	99
Total :	84457	4239	3203	85493	8148	414	376	8186	3856	271	312	3815

Name of the Judgeship	CIVIL REVISIONS				EXECUTION PROCEEDINGS				M.J.Cs./SPECIAL ACT CASES			
	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009
Balasure	41	01	10	32	1416	23	19	1420	7918	601	338	8181
Bolangir	30	--	03	27	808	03	13	798	722	54	64	712
Cuttack	19	--	04	15	2834	27	34	2827	12724	1032	648	13108
Dhenkanal	07	--	--	07	1854	15	06	1863	2081	117	59	2139
Ganjam	24	03	06	21	1770	26	15	1781	2539	105	227	2417
Kalahandi	12	01	03	10	439	01	36	404	902	44	32	914
Keonjhar	05	01	02	04	613	23	21	615	395	51	74	372
Khurda	37	01	01	37	1999	28	23	2004	7512	515	444	7583
Koraput	01	--	--	01	753	12	26	739	500	49	82	467
Mayurbhanj	12	04	--	16	716	08	11	713	730	43	49	724
Phulbani	--	--	--	--	201	08	--	209	202	18	22	198
Puri	49	02	04	47	772	16	15	773	3490	278	197	3571
Sambalpur	21	03	01	23	1441	16	04	1453	1639	84	90	1633
Sundargarh	11	03	02	12	733	11	07	737	577	58	59	576
Total :	269	19	36	252	16349	217	230	16336	41931	3049	2385	42595

Name of the Judgeship	M.A.C.T. CASES				SESSIONS CASES				CRIMINAL APPEALS			
	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009
Balasure	1848	62	177	1733	1018	193	97	1114	524	29	18	535
Bolangir	429	30	33	426	516	96	51	561	459	23	30	452
Cuttack	12330	281	211	12400	2037	232	190	2079	427	39	28	438
Dhenkanal	1160	55	86	1129	487	84	75	496	258	09	23	244
Ganjam	4020	180	158	4042	2049	157	82	2124	353	29	30	352
Kalahandi	302	17	27	292	206	37	41	202	305	23	30	298
Keonjhar	1162	41	161	1042	352	75	49	378	179	18	30	167
Khurda	3643	82	14	3711	1066	81	61	1086	290	27	10	307
Koraput	956	24	27	953	607	86	70	623	291	25	26	290
Mayurbhanj	1051	58	15	1094	421	67	60	428	124	15	13	126
Phulbani	166	11	26	151	273	52	44	281	303	18	98	223
Puri	4188	142	210	4120	1726	134	98	1762	307	31	40	298
Sambalpur	1121	108	52	1177	966	152	117	1001	135	45	34	146
Sundargarh	2719	89	86	2722	421	106	79	448	243	29	27	245
Total :	35095	1180	1283	34992	12145	1552	1114	12583	4198	360	437	4121

Name of the Judgeship	CRIMINAL REVISIONS				CRIMINAL MISC. CASES				SPECIAL ACT CASES			
	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009
Balasure	432	34	29	437	80	523	524	79	315	66	15	366
Bolangir	226	17	21	222	43	343	333	53	119	24	10	133
Cuttack	219	28	37	210	295	1132	1161	266	250	23	15	258
Dhenkanal	121	12	16	117	79	427	445	61	266	15	10	271
Ganjam	288	28	25	291	109	747	731	125	245	15	07	253
Kalahandi	125	10	05	130	12	174	166	20	317	10	14	313
Keonjhar	23	01	06	18	22	208	181	49	49	10	14	45
Khurda	198	16	19	195	78	664	659	83	339	16	07	348
Koraput	85	18	08	95	60	369	383	46	263	15	18	260
Mayurbhanj	64	14	17	61	34	284	279	39	43	12	01	54
Phulbani	123	03	46	80	75	206	223	58	42	--	01	41
Puri	225	22	50	197	56	420	423	53	267	22	21	268
Sambalpur	94	26	20	100	73	679	675	77	170	20	18	172
Sundargarh	78	08	25	61	53	361	384	30	56	04	07	53
Total :	2301	237	324	2214	1069	6537	6567	1039	2741	252	158	2835

Name of the Judgeship	PREVENTION OF CORRUPTION ACT (VIG. + C.B.I.)			
	Opening Balance as on 1.4.2009	Institution	Disposed of	Pendency as on 30.6.2009
Balasure	498	03	01	500
Bolangir	124	07	--	131
Cuttack	446	26	04	468
Dhenkanal	--	--	--	--
Ganjam	229	19	07	241
Kalahandi	--	--	--	--
Keonjhar	--	--	--	--
Khurda	794	17	22	789
Koraput	116	10	08	118
Mayurbhanj	--	--	--	--
Phulbani	--	--	--	--
Puri	--	--	--	--
Sambalpur	436	19	--	455
Sundargarh	01	--	--	01
Total :	2644	101	42	2703

Name of the Judgeship	CRIMINAL CASES OF MAGISTERIAL COURTS										
	Opening Balance as on 1.4.2009			Institution	Disposed of			Pendency as on 30.6.2009			
	Gen. File	Trial File	Total		Gen. File	Trial File	Total	Gen. File	Trial File	Total	
Balasure	38334	21220	59554	3295	592	1955	2547	38392	21910	60302	
Bolangir	14271	6621	20892	3541	479	2778	3257	14516	6660	21176	
Cuttack	133110	41873	174983	3737	712	3020	3732	132890	42098	174988	
Dhenkanal	48194	11615	59809	2201	441	1113	1554	48641	11815	60456	
Ganjam	35937	20358	56295	4227	1951	2396	4347	36302	19873	56175	
Kalahandi	26012	9236	35248	2051	08	1586	1594	26572	9133	35705	
Keonjhar	13851	6713	20564	829	119	686	805	13979	6609	20588	
Khurda	98297	9915	108212	8376	4193	911	5104	101641	9843	111484	
Koraput	48900	22006	70906	2687	428	2865	3293	48421	21879	70300	
Mayurbhanj	18223	10067	28290	885	17	748	765	18392	10018	28410	
Phulbani	12836	5376	18212	867	131	988	1119	12746	5214	17960	
Puri	22898	13101	35999	1980	484	1551	2035	22826	13118	35944	
Sambalpur	62280	16678	78958	1971	39	1663	1702	62652	16575	79227	
Sundargarh	59572	10934	70506	1364	245	1266	1511	59319	11040	70359	
Total :	632715	205713	838428	38011	9839	23526	33365	637289	205785	843074	

TOTAL NO. OF CIVIL AND CRIMINAL CASES DURING THE PERIOD FROM 1.4.2009 TO 30.6.2009

<u>Opening Balance</u>	<u>Institution</u>	<u>Disposed of</u>	<u>Pendency</u>
CIVIL	190105	7825	191669
CRIMINAL	863526	42007	868569
	9389		
	47050		

OUTLINES OF SOME RECENT ORISSA HIGH COURT JUDGEMENTS

AMIYA KANTI PATNAIK & ORS. -V- UNION OF INDIA & ORS.
W.P.(C) NO. 3771 OF 2003. (Dt.02.04.2009)

CONSTITUTION OF INDIA, 1950 - ART. 14 & 16.

Schedule Caste Candidate selected for promotion against the reserved post meant for Schedule Caste – Petitioners who belong to general category cannot be said to have been discriminated by such promotion.

Held, parity can be claimed only within a class but not amongst persons belonging to different class.

(I.M.Quddusi , J & Sanju Panda, J.)

RAMAKANTA SAHOO @ RAMA @ DILLIP -V- STATE - ANUJA KUMAR SAHU
@ ANU -V- STATE OF ORISSA.
CRIMINAL APPEAL NOS. 324 & 329 OF 2004. (Dt.08.04.2009)

(A) INDIAN PENAL CODE, 1860 - SEC. 302 & 34.

Common intention - Appellant Ramakanta is the driver of the Jeep but at the time of occurrence it was driven by appellant Anuja and appellant Ramakanta was sitting in his side - No whisper anywhere in the evidence that there was prior meeting of mind of both the appellants or at the spur of the moment Ramakanta Shared with Anuja the common intention of causing death of the deceased - Merely because he was one of the occupants of the vehicle no inference can be drawn that he shared the common intention of killing the deceased with appellant Anuja.

Held, in the absence of any material appellant Ramakanta could not have been convicted for commission of the offence with the aid of section 34 IPC.

(B) INDIAN PENAL CODE, 1860 - SEC. 302.

Appellant Anuja killed the deceased by crossing his Marshal Jeep.

Appellant Anuja not only dashed the Jeep against the motor cycle but also moved ahead and again came back and ran over the deceased – There was also enmity between them and Anuja threatened to kill the deceased. Evidence of eyewitness corroborated with the extra Judicial confession made by the appellant.

Held, accused Anuja had intention to cause death of the deceased – No infirmity in the impugned judgment finding the appellant Anuja guilty of the charge U/s. 302 IPC.

(L .Mohapatra, J. & Pradip Mohanty, J.)

APARNA SAHU & ORS.-V- RAGHUNATH BISWAL & ORS.
SECOND APPEAL NO. 224 OF 1993.(Dt.08.04.2009).

HINDU SUCCESSION ACT, 1956 - SEC. 30.

Execution of will - By the will in question specific items of the joint family properties had been bequeathed - Law is well settled that till the properties are partitioned by metes and bounds, every co-sharer has a right over each inch of the coparcenary properties - A Hindu has a right to dispose of the property by a will over which he had exclusive right, title and interest but not other properties.

In the present case the conclusion arrived at by the appellate Court that the will was a valid one and that in consonance with the aforesaid will the plaintiff had acquired right, title and interest only in respect of 1/3rd properties of Jahar and not specific properties mentioned in the will is just and proper – Held, no interference by this Court in the above findings.

(A.S.Naidu, J.)

**SRI RANEDRA PRATAP SWAIN -V- RETURNING OFFICER, 89- ATHAGARH ASSEMBLY
CONSTITUENCY-CUM-SUB COLLECTOR, ATHAGARH & ORS.**
W.P.(C) NO.5616 OF 2009, (Dt.09.04.2009)

CONSTITUTION OF INDIA, 1950- ART, 329 (b).

No election to either House of Parliament or to the house or either house of the Legislature of a State can be called in question except by an election petition.

In the present case nomination paper of the petitioner was rejected by the Returning Officer of 89-Athagarh Assembly Constituency for non submission of Forms A & B in original with signature in ink – He challenged the action in Writ petition and this Court while not inclined to interfere granted liberty to the petitioner to approach the Election Commission of India – Petitioner accordingly made a representation but the Election Commission refused to interfere - Hence the present Writ Petition.

Held, the Writ Petition is misconceived and as such not maintainable.

(I.M.Quddusi, J & Sanju Panda,J.)

LAXMIPRIYA MISHRA -V- STATE OF ORISSA & ORS.
W.P.(C) NO. 2439 OF 2005. (Dt.09.04.2009).

**ORISSA AIDED EDUCATIONAL INSTITUTIONS EMPLOYEES RETIREMENT BENEFIT RULES.
1981 - RULE 8(2).**

Dearness pay and T.I - Late husband of the petitioner approached this Court for non-payment of the same in an earlier Writ petition – Now the petitioner has filed the present Writ petition for the same relief.

Similarly situated employees who have retired along with the petitioner's husband have been allowed dearness pay and interim relief – Held, in view of the notes to Rule 8 (2) of the Orissa Aided Educational Institutions Employees Retirement Benefit Rules 1981 the petitioner's husband was entitled to the Dearness pay and T.I from 31.3.1986 till 5.4.2004- It is also further directed that on account of such increase in payment of pension of the late husband of the petitioner the family pension of the petitioner will be proportionately increased and shall be paid to the petitioner within a period of two months from the date of Communication of this Order.

(M.M.Das, J.)

**EXECUTIVE ENGINEER, ELECTRICAL JAJPUR ROAD ELECTRICAL DIVISION,
JAJPUR ROAD, -V- PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, BHUBANESWAR, & OTHERS.**
O.J.C NO. 217 OF 1999. (Dt. 09.04.2009)

INDUSTRIAL DISPUTES ACT, 1947 – SEC. 2 (OO) (bb) & 25F.

Retrenchment of workman by verbal orders – Violation of Section 25F - plea of the management that the engagement of the workmen was sporadic and intermittent – Order of the Tribunal directing reinstatement of the workmen – Award challenged.

Management / Petitioner has failed to show any perversity or illegality in the impugned award – If it is possible to form two opinions on the materials available on record and the Tribunal / Court below has formed one opinion this Court should not exercise its supervisory power Under Article 227 of the Constitution of India and interfere with an order – Held, there being no error in the findings of the Tribunal this Court is not inclined to interfere with the impugned order.

(M.M.Das, J.)

STATE -V- REJEV SWAIN & ANR. & BHIKARI CH.SWAIN -V- RAJEV SWAIN & ORS.
GOVT. APPEAL NO. 27 OF 1988 & CRL. REVISION NO. 321 OF 1988 (Dt.10.4.2009)

CRIMINAL TRIAL – Appreciation of evidence by the trial Court is reasonable – Though a contrary view can be taken on the self-same set of evidence but the view taken by the trial Court is neither illegal nor improper – Since principle is when two views are possible and the view taken by the trial Court in favour of the accused is not illegal or irrational the appellate authority should not interfere with the same – Held, this Court finds no fault with the order of acquittal.

(P.K.Tripathy, J. & Pradip Mohanty, J.)

BANDHANA BARLA & ORS.-V- STATE OF ORISSA.
CRIMINAL APPEAL NO. 182 OF 2004. (Dt.10.04.2009.)

INDIAN PENAL CODE, 1860 - SEC. 34.

Common intention - To attract Section 34 IPC. it is necessary that common intention of each one of the participants should be known to the rest of them and shared by them.

Common intention may develop at the spot but there must be evidence showing pre-arranged plan and prior concert- Mere presence of a person at the time of commission of the offence by his confederates is not enough.

In the present case there is clear evidence that the appellants had assaulted the deceased in his home first and thereafter on the way to P.S. two of the appellants declared to kill the deceased and all the appellants participated in commission of the offence being armed with lathi & knife - Held, there was not only common intention of each one of them but also they shared the common intention – No infirmity in the impugned judgment convicting all the three appellants U/s. 302 IPC.

(L.Mohapatra, J. & Pradip Mohanty, J.)

**DURYODHAN LENKA -V- CHAIRMAN OF BOARD OF DIRECTORS,
KALINGA GRAMYA BANK, CUTTACK & ORS.**
W.P.(C) NO.13239 OF 2003 (Dt.13.04. 2009).

CONSTITUTION OF INDIA, 1950 - ART, 311.

Disciplinary proceeding - Quasi-Judicial in nature - In the present case no evidence adduced before the enquiry officer and there is no definite finding recording that the charges have been proved - Disciplinary authority issued final order of dismissal without waiting for any reply from the petitioner - Appellate authority dismissed appeal without any reason - All the charges, if taken cumulatively, the punishment becomes harsh and disproportionate to the charges -Held, order of dismissal passed by the disciplinary authority and order of confirmation passed by the appellate authority are liable to be quashed.

(B.P.Das, J. & B.P.Ray, J.)

SHANTILATA SRICHANDAN -V- STATE OF ORISSA & ORS.
W.P.(C) NO. 11621 OF 2007. (Dt.16.04.2009)

CONSTITUTION OF INDIA, 1950 – ART. 226.

Death due to Electrocutation - Live electric ' wire' sagged from the pole and was hanging in close proximity to the road causing the death of the son of the petitioner - Negligence of the Opp. Parties - Mother of the deceased claimed for compensation.

Law is well settled that the award of compensation depends upon the negligence and negligence being a question of fact it can not be entertained under Writ jurisdiction.

Held, this Court found prima facie negligence on the part of the Opp.Parties and granted interim compensation of Rs.50,000/- for the time being and allowed liberty to the petitioner to file a Suit claiming further compensation, if she is so advised.

(A.S. Naidu, J.)

CHINAR JAWAHARLAL PATRO -V- STATE OF ORISSA.
CRLREV. NO. 1662 OF 2008. (Dt.17.04.2009.)

PREVENTION OF CORRUPTION ACT, 1988 - Sec.19.(1). r/w SEC. 319 CR.P.C.

There is no pale of controversy that sanction is a pre-condition for prosecuting a public servant even U/s. 319 Cr.P.C.

In the present case investigation into the offence under the P.C.Act was taken up against the petitioner as well as his peon and the I.O. sought for sanction which was refused twice so charge sheet filed only against the peon - In course of trial complainant stated that the petitioner while working as M.V. Inspector had demanded illegal gratification of Rs.500/- and he had been cut red handed along with his peon by the Vigilance trap – Hence special P.P. filed petition U/s. 319 to summon the petitioner which was allowed by the Special Judge Vigilance - Hence the revision .

Held, Special Judge while trying an offence under the prevention of corruption Act can not summon another person and proceed against him in purported exercise of power U/s. 319 Cr.P.C. if no sanction has been granted by the appropriate authority.

(I.Mahanty, J.)

**TULSIRAM SAHU -V- UNION OF INDIA,
REP.THROUGH ITS DIRECTOR GENERAL OF POSTS & ORS.
W.P.(c) No. 2203 of 2005 (Dt. 20.04.2009)**

CONSTITUTION OF INDIA, 1950 – ART. 311 (2).

Dismissal from service – In service, when money matters are involved an employee has to maintain the highest integrity as he is acting as the trustee – In the present Case there are charges of temporary embezzlement of Rs. 400/- in three occasions – It is not the amount but the mensereas to cheat which is important - Any sympathy shown in such cases is totally uncalled for and opposed to public interest -The amount misappropriated may be small or large, it is the act of misappropriation that is relevant – Held, in a case of corruption, the only punishment is dismissal

(Dr.B.S.Chauhan, C.J. & I.Mahanty, J.)

**KINKAR PRASAD MANDAL -V- STATE OF ORISSA.
CRIMINAL REVISION NO. 520 OF 2001.(Dt.20.04.2009)**

PREVENTION OF FOOD ADULTERATION ACT, 1954 – SEC. 16 (1-A) (i).

Material discrepancy in the evidence of the prosecution witnesses -Apart from that one part of the sample food article was sent to public Analyst on 20.05.1993 and Public Analyst's report has been signed on 25.06.1993 and the Prosecution report was filed as late as on 25.04.1994 and notice U/s. 13(2) of the Act was sent to the petitioner on 28.04.1994 – No explanation for such inordinate delay in launching the prosecution and intimating the petitioner regarding his right to get a part of the sample retained with the Local Health Authority examined under the Central Laboratory – Held. it will be unsafe to hold that the prosecution has established the charge against the petitioner beyond reasonable doubt.

(B.K.Patel, J.)

**SAYAMBHU DIGAL. -V- HINDUSTAN AERONAUTICS LTD. & ORS.
O.J.C. NO. 10846 OF 1997.(21.04.2009).**

CONSTITUTION OF INDIA, 1950 - ART. 311.

Departmental enquiry - Acquittal in Criminal trial - Disciplinary authority dismissed the petitioner from service - Hence this writ petition.

The purpose of Criminal proceedings and the disciplinary proceedings are altogether different - The nature of evidence in Criminal trial is quite different from the departmental proceedings – In a Criminal trial the prosecution is to prove its case of commission of offence by the accused beyond reasonable doubt where as in the disciplinary proceedings the misconduct of the delinquent is to be proved.

In the present case the petitioner has Cross-examined all the witnesses examined on behalf of the department but he did not provide any documentary evidence nor examined any witness on his behalf.

Held, no procedural error of law or illegality in the proceeding - No interference in the decision taken by the disciplinary authority.

(I.M.Quddusi, J. & Sanju Panda, J.)

ARABINDA DHALI -V- PRL. SECRETARY TO GOVT., MINISTRY OF HOME AFFAIRS & ORS.
W.P (C) NO. 13059 OF 2008.(Dt.21.04.2009).

CONSTITUTION OF INDIA, 1950- Art .21.

Provision for 'Z' Category Security - Withdrawal by State Govt. – Action Challenged.

Security provided to a person considering the threat perception - As reported by the Central Security Agencies the petitioner is in the hit list of the left wing extremists – The threat perception can not be said to be of different degrees at different places- When one is targeted by any extremist wing, such wing would ordinarily try to take advantage of weaker moment to fulfil their mission – Held, action of the Government. is illegal and as such State Govt. was directed to provide 'Z' Category Security to the petitioner through out the State.

(I.M.Quddusi, J. & B.N.Mahapatra, J.)

BASANTA KUMAR PATNAIK. -V- STATE OF ORISSA & ORS.
W.P.(C) NO.4401 OF 2007. (Dt.21.04.2009)

CONSTITUTION OF INDIA, 1950 – ART. 311 (2).

Termination of service by Disciplinary Authority – Appeal preferred by the delinquent – Appellate Authority remanded the matter to Disciplinary Authority directing to hear the appellant before imposing major penalty – Disciplinary Authority has not done so – Held, orders of termination passed by the Disciplinary Authority fail to stand the judicial scrutiny and the said orders are tainted with unreasonableness, arbitray exercise of power and lack of fair play, hence quashed. Since petitioner has already retired from service he shall be given all backwages from the date of termination till the date of his retirement on superannuation.

(B.P.Das, & B.P.Ray, J.)

GOBINDA CHANDRA SAHOO & ORS. -V- STATE OF ORISSA & ORS.
W.P.(C) NO.333 OF 2004 (Dt.22.04. 2009).

CONSTITUTION OF INDIA, 1950 - ART. 226 .

Writ petition – Maintainability of Writ petition by persons purchased the land subsequent to the Notification U/s.4 Land Acquisition Act.

Section 4 Notification is a notice to the public that the land is needed for public purpose – any purchase after Sec. 4 Notification is void against the state and the purchaser at best can claim compensation on the basis of vendor's title.

It is the settled legal proposition that the land acquisition proceedings cannot be challenged at a belated stage.

Moreover the Writ petition was filed on 09.01.04 – No attempt made by the counsel for the petitioners to get the matter listed.

Held, the Writ petition cannot be entertained.

(Dr.B.S.Chauhan, CJ & I.Mahanty, J.)

SRI PAWAN KUMAR DHANUKA -V- STATE OF ORISSA & ORS.
W.P (C) NO. 11 OF 2009. (Dt.22.04.2009)

PREVENTION OF BLACKMARKETING & MAINTENANCE OF SUPPLIERS OF ESSENTIAL COMMODITIES ACT, 1980 – SEC. 3 (1).

Detention- Unexplained delay between the date of Order of detention and the date of securing arrest of the detenu – delay would throw considerable doubt on the genuineness of the subjective satisfaction of the detaining authority with regard to necessitating detention of the detenu with a view to prevent him from acting in a prejudicial manner.

In the present case petitioner was detained by order dt.25.11.0-8 for the act of blackmarketing of blue dyed Kerosene and converting the same to diesel by using chemicals in August, 2008 – Nothing mentioned in the grounds of detention that the petitioner was indulged in any further activities during the months of September, October & November, 2008 - In the absence of any other incident after August, 2008 to show that the petitioner was still indulging in blackmarketing of blue dyed Kerosene, this Court has doubt about the genuineness of the subjective satisfaction of the District Magistrate Bargarh while passing the impugned order of detention.

Held, this Court quashed the order of detention passed by District Magistrate, Bargarh and the order of the State Govt. confirming the same.

(I.M.Quddusi, J, & Sanju Panda, J.)

LIMALA KAMUDU -V- STATE OF ORISSA.
CRIMINAL APPEAL NO.156 OF 1989. (Dt.22.04.2009).

INDIAN PENAL CODE, 1860 - SEC. 376.

Rape – P.W.1. the victim stated in the FIR that she wokeup when accused touched her but in the deposition she stated that she wokeup when accused penetrated in to her vagina – P.W.2 is the Sister-in-law of the victim who admitted that when she wokeup she found the accused lying on P.W.1 but she did not whisper a single line about raising any hullah at the time of rape – P.W.2 also admitted that she had not seen the accused penetrating his penis into the vagina of P.W.1 – P.W.7 the doctor who examined the accused did not find any external injury or scratch mark on the body, penis, scrotum or thighs of the accused – P.W.6 who examined the victim opined that no spermatozoa was found in the vaginal fluid and no mark of injury was found on the vagina.

Held, it is a clear case of sexual cohabitation with consent of P.W.1- Nothing on record to convict the appellant.

(Pradip Mohanty, J.)

BHAGABAN BEHERA & 2 ORS.-V- CENTRAL INSTITUTE OF FRESH WATER AQUA - CULTURE & 3 ORS.
W.P.(C) NO.2743 OF 2007, (Dt.24.04.2009).

CONSTITUTION OF INDIA, 1950 - ART, 300 – A.

Property – Petitioner has been dispossessed illegally without following the procedure prescribed by law.

Right to property had earlier been a fundamental right and now it remains as a constitutional or a human right – Since petitioners have been dispossessed of their valuable right over the land with

utter disregard of the Constitutional mandate, this Court directed the Opp.Party to pay compensation to them or restore possession of the land to them within a period of 3 months from the date of receipt of the copy of this order.

(Dr. B.S.Chauhan, C.J. & I.Mahanty, J.)

SADANANDA MEHER -V- CHANDRAMANI DEI & ANOTHER.
CRLMC NO. 492 OF 2007.(Dt.24.04.2009).

CRIMINAL PROCEDURE CODE, 1973 - SEC. 125 (1).

Order for payment of maintenance / interim maintenance - If such order not complied with without sufficient cause then it constitutes a breach of the order – For every breach the Magistrate may issue warrant for levying the amount due in the manner provided for levying fines – However no such warrant can be issued for any amount due unless application be made to the Court within a period of one year from the date of which the maintenance has been due.

In the present case it was not necessary for the wife and daughter to file five separate execution petitions. Even, they can claim entire arrear maintenance as well as current maintenance in one petition within one year of passing of the order of maintenance. Held, learned Court below has rightly refused to grant stay.

(L.K.Mishra, J.)

BIJAY KETAN BRAHMA & ORS. -V- STATE OF ORISA & ORS.
ORIGINAL JURISDICTION CASE NO. 4969 OF 1996 (Dt.24.04.2009)

ORISSA ESTATES ABOLITION ACT, 1951 – SEC. 8 (1)

To invoke any right under Section 8(1) of the OEA Act, two basic requirements have to be fulfilled, (i) a person claiming to be a tenant on the date of vesting has to satisfy the authorities that he was in fact inducted as a tenant by the intermediary prior to vesting and (ii) he was in possession of the property on the vesting.

In the Case at hand Opp.Parties - Villagers dispute the possession of the petitioners and claim that they were in possession of the tank all along - Possession on the date of vesting being a necessary ingredient for recognition as a tenant U/s. 8 (I) of the OEA Act and as the Tahasildar has no jurisdiction to decide as to who was in possession on the date of vesting, the person aggrieved had to approach the Civil Court for such determination - Held, petitioners failed to establish both the ingredients to claim protection U/s. 8(1) of the OEA Act.

(A.S.Naidu, J.)

NAJU MALLIK -V- STATE OF ORISSA
JAIL CRIMINAL APPEAL NO.164 OF 1999.(Dt.27.04.2009).

INDIAN PENAL CODE, 1860 - SEC. 302. 304 Part- II.

Appellant shot an arrow which pierced into the belly of the deceased - Nature of evidence – Only one arrow was shot at the deceased – Prosecution has been able to prove that the appellant had knowledge that the injury inflicted by him may cause death but motive or intention to kill has not been proved- Held, Appellant is guilty for commission of offence Under Section 304, Part-II I.P.C. but not under Section 302 I.P.C.

(L.Mohapatra, J. & I.Mahanty, J.)

ARJUNA CHARAN PATRA & ORS. -V- STATE OF ORISSA

O.J.C.NO. 7766 OF 1999.(Dt.29.04.2009).

Service law – Regularisation of service – Petitioners prayer is to regularise them against the vacant posts under Puri Konark Development Authority – Opp.Parties Case is petitioners were not engaged in any vacant post to seek for a direction for regularisation.

In the case at hand, the petitioners are all irregular appointees and they have not been appointed by the PKD Authority against any sanctioned/ regular vacant posts by resorting to due process of recruitment like getting sponsored names from the Employment Exchange and following the relevant reservation rules but they have come through the back door method – Held, the petitioners have neither any enforceable right to be permanently absorbed or has the PKD Authority any legal duty to absorb them permanently.

(B.P.Das, J. & B.P.Ray, J.)

SURENDRA NATH SAHU -V- STATE OF ORISSA.

CRLMC NO. 1081 OF 2008. (Dt. 29.04.2009.)

CRIMINAL PROCEDURE CODE, 1973 - SEC. 482.

Cognizance taken U/s. 13 (2) read with Section 13 (1) (e) P.C.Act- Prayer to quash the order taking cognizance – Ground is assets and properties which found the basis for initiation of the case are situated at Bhubaneswar and Berhampur so the Special Judge (Vigilance), Sambalpur has no jurisdiction to take cognizance.

In this case while the petitioner was posted at Bargarh he possessed/ acquired properties disproportionate to his known sources of income -Since Bargarh comes within the territorial jurisdiction of the Vigilance Court Sambalpur the matter was investigated and cognizance was taken but the petitioner has not shown at the earliest as to how he was prejudiced by the investigation and the cognizance taken by the Learned Special Judge (Vigilance), Sambalpur rather at his instance the case transferred from Sambalpur to Bhubaneswar in which witnesses have already been examined by the Prosecution.

Held, this Court not inclined to interfere with the impugned Order.

(Saju Panda, J.)

GURU PRASAD MOHANTY & ANR. -V- STATE & ORS.

& KAILASH SAHU -V- STATE OF ORISSA & ORS.

W.P.(C) NOS. 14801 & 18315 OF 2008. (Dt.30.4.2009)

ORISSA STAMP RULES, 1952 - Rule 23, 24 & 41

Registration of document - Fixation of market value of land - Instructions Dt. 05.08.08 & 20.08.08 issued by Inspector General of Registration Orissa fixing Bench Mark Valuation of the property which is challenged in this Writ petition.

Rule 23 & 24 of the Orissa Stamp Rules 1952 prescribes provisions to deal with under valued instruments – Rule 41 provides that in case the committee fails to raise the valuation, the Collector as Chairman would enhance the value of land by ten percent.

In the present Case the authority is not authorised to amend the statutory provision by issuing directions – Once the provision prescribed the procedure for fixation of valuation, the authorities are only empowered to give direction confined to the said provision only - Held, instructions issued by IGR is contrary to the statutory provisions, hence quashed.

(I.M.Quddusi, J. & Sanju Panda, J.)

M/S.NABADURGA CONSTRUCTION PVT. LTD.-V-STATE OF ORISSA & ORS.

W.P.(C) No.19871 OF 2008, (Dt.30.04.2009)

CONSTITUTION OF INDIA, 1950 - ART. 226 .

Withdrawal of Writ Petition without obtaining leave of the Court to move a fresh petition - Subsequently fresh Writ Petition filed for the self same cause of action without there being any change of circumstances- Writ petition not maintainable.

Principle underlying in order 23 Rule 1 CPC should be extended to cases of withdrawal of Writ petitions in the interest of administration of justice and public policy which will discourage the litigants from indulging in bench-hunting tactics .

Held, Writ petition is dismissed with cost of Rs.10,000/-

(B.P.Das, J & B.P.Ray, J.)

M/S. NIRVIK PRINTERS PVT.LTD & ORS -V- ORISSA PRIMARY EDUCATION PROGRAMME AUTHORITY & OTHERS.

W.P.(C) NO. 6414 OF 2008 (Dt. 30.04.2009)

CONSTITUTION OF INDIA, 1950 – ART.14.19 & 21.

Government contract – Black listing the Petitioner No.1 - press without issueing any notice to show cause and without giving an opportunity of being heard - Violation of natural justice.

In the present Case petitioner's tender was accepted for printing of handbooks for VEC Training - For non-availability of specified paper petitioner intimated the Opp.Party about his inability to execute the contract - Opp.Party published re-tender notice - Although petitioner applied he was not allowed to participate.

Change of specification of the paper in the re-tender fortifies the stand of the petitioner – Held, forfeiture of EMD and black listing of petitioner No.1 firm is arbitrary and illegal being violative of the principles of natural justice- Hence quashed – Direction to Opp. Parties to refund the EMD to the petitioner within 3 months.

(I.M.Quddusi, J. & B.P.Ray, J.)

NIRANJAN DAS -V - STATE OF ORISSA & ANR.

CRIMINAL REVISION NO. 559 OF 2007. (Dt.30.04.2009).

CRIMINAL PROCEDURE CODE, 1973 - SEC. 239.

Discharge of accused - Application for discharge rejected - Hence this revision.

If there is presumption of involvement of the accused with the alleged crime, charge can be framed and the accused can be tried - In the instant case after perusal of the F.I.R. & the

statements recorded U/s. 161 Cr.P.C., this Court is of the opinion that there are sufficient ground to frame charge against the petitioner.

Held, there is no illegality or irregularity committed by the learned Chief Judicial Magistrate in rejecting the application U/s. 239 Cr.P.C.

(Pradip Mohanty, J.)

BHASKAR CHANDRA NAYAK & ANR. -V- STATE OF ORISSA.
CRIMINAL APPEAL NO. 125 OF 1989. (Dt.30.04. 2009).

INDIAN PENAL CODE, 1860 - SEC. 412.

To receive / retain stolen property dishonestly – Onus lies on the prosecution to prove that the properties were stolen properties and were misappropriated by the appellants – In the absence of such proof conviction of the appellants is not proper – Mere possession is not sufficient to convict them U/s. 412 IPC - Non-production of the material object and non- mentioning the serial number of the currency notes are also fatal to the prosecution case.

Held, Order of conviction and sentence set aside.

(Pradip Mohanty, J.)

SURYA KANTA TRIPATHY & ANR. -V- STATE OF ORISSA.
CRLMC. NO. 868 OF 2007 (Dt.30.04.2009)

CONSTITUTION OF INDIA, 1950 - ART. 21.

Pendency of Vigilance Case since 1998 – Petitioners filled petition U/s. 227 Cr.P.C. for discharge – Petition rejected – Cognizance taken by order dt.11.01.07 – Hence this petition.

Right to speedy trial denied to the petitioners – Violation of their fundamental rights guaranteed under Article 21 of the Constitution – Delay in trial of the Case was not due to the negligence on the part of the accused but the prosecution is responsible for the delay as charge sheet was submitted after six years from the date of occurrence.

Held, this Court quashed the entire proceeding.

(M.M.Das, J.)

RAMESH CHANDRA NATH -V- UNION OF INDIA & ORS.
O.J.C NO.11734 OF 2000. (Dt. 01.05.2009)

CONSTITUTION OF INDIA, 1950 – ART. 311.

Disciplinary proceeding - Termination of service - Action challenged before the Tribunal - Tribunal dismissed the application - Hence the Writ petition.

In the present case it was proved beyond doubt that the “ Caste Certificate” issued in favour of the petitioner was forged - Plea of the petitioner that he had not been informed that he was given the job against the S.T.Vacancy – There is no provision to inform a Candidate under which category he or she has been recruited.

Petitioner himself was the sole beneficiary of the interpolation made in the application form and also the sole beneficiary of the fake S.T.Certificate – Held, no justifiable reason to interfere with the order passed by the Tribunal.

(L.Mohapatra, J. & I.Mahanty, J.)

BACHAN SINGH -V- THE ROAD TRANSPORT OFFICER, ROURKELA, SUNDARGARH & OTHERS.
O.J.C. NO. 2247 OF 2002. (Dt.04.05.2009)

ORISSA MOTOR VEHICLES TAXATION ACT, 1975 - SEC. 12 .

Vehicle purchased in auction sale from the corporation – Vehicle was not in use or kept for use – Tax and Penalty outstanding against previous owner – After purchase corporation handed over possession of the vehicle to the petitioner – No certificate of fitness and permit issued to the petitioner from the date of purchase – Held , petitioner is not liable to pay arrears of penalty payable by the previous owner- He is also not liable to pay tax and penalty for the post-auction period.

(Dr. B.S.Chauhan, CJ & B.N.Mahapatra, J.)

SRI ABHIRAM MOHAPATRA, -V- SMT. DRAUPADI MOHAPATRA.
O.J.C. NO. 6975 OF 1999. (Dt. 05.05.2009.)

CRIMINAL PROCEDURE CODE, 1973 - SEC 126, (2) r/w SEC. 12 (1) (a) HINDU MARRIAGE ACT.

Application for maintenance / litigation expenses allowed exparte - Order Challenged in Writ petition without filing petition U/s.126 (2) - However this Court entertained the Writ petition on the ground that petitioner obtained an exparte decree of nullity of marriage U/s. 12 (1) (a) Hindu Marriage Act, 1955 which is not a decree of divorce U/s. 13 of the said Act to make the Opp.Party eligible to claim maintenance.

Held, since there is no conclusive evidence to accept the above state of affairs and admittedly the petitioner did not contest the proceeding U/s. 125 Cr.P.C. he may file an application to set aside the impugned exparte order.

(P.K.Tripathy, J. & L.K.Mishra, J.)

SOMANATH MOHAPATRA & ANR. - V- STATE OF ORISSA & 3 ORS.
W.P (C) NO. 3530 OF 2003. (Dt. 06.05.2009)

ORISSA AGRICULTURAL PRODUCE MARKETS ACT, 1956 – SEC.4 (3) & 11.

Direction by Opp.Party to the petitioners not to run Somanath Hat and to pay market fees for the years 1994-2003 by 31.03.2003 – In the notice, no basis was also indicated as to how the Hat day are fixed and market fee per day is determined – No opportunity of hearing was offered to the petitioners before assessing the petitioner for such huge amount of market fees – No reason assigned as to why the O.P.2 has not taken any step for collection of such market fee during the past eight years – Opp.Party No.2 unable to satisfy as to under which provision of law such amount of fees was demanded from the petitioners when section 11 of the Act authorises the market committee only to levy and collect market fees from the purchasers of agricultural produce and not from the owner of any Hat - Held, in the absence of any statutory provision for levying and collecting such fees from the owner of the Hat, the levy is not sustained in law.

(Dr. B.S.Chauhan, C.J. & B.N.Mahapatra, J.)

BASU KHADIA -V- STATE OF ORISSA.
JAIL CRIMINAL APPEAL NO.262 OF 2000.(Dt.06.05.2009)

EVIDENCE ACT, 1872 - SEC. 27.

Leading to discovery - P.W.7 and P.W.8 are consistent in their statement that the appellant while in Police custody admitted to have killed the deceased by means of a knife and led the police to a place where he had concealed the knife and gave recovery of the same – Their evidence gets corroboration from the evidence of the I.O. and there is nothing in the Cross-examination of the said witnesses to discard their testimony.

(B) EVIDENCE ACT, 1872 - SEC. 32.

Dying declaration by the deceased before P.W.1, her mother - Deceased disclosed that the appellant assaulted her by means of a knife and thereafter lost sense and died at the spot - Nothing has been brought out in Cross-examination of this witness to disbelieve her - No suggestion has been put to her that the deceased was in such a condition could not have made a disclosure - Moreover statement of P.W.1 gets support from the evidence of P.W 6 who conducted the post mortem examination.

Held, Prosecution has been able to prove the charge against the appellant beyond all reasonable doubts.

(L. Mohapatra, J. & B.N.Mahapatra, J.)

HIRADHAR @ HIRA KISAN -V- STATE OF ORISSA.
CRLA NO. 181 OF 2004 (Dt.20.05.2009).

CRIMINAL PROCEDURE CODE, 1973 - SEC. 313.

Non- recording of accused statement properly – Conviction can not sustain .

Trial Court formulated five questions to put the appellant but only answer against question No.1 was recorded - It is presumed that other question No.1 was recorded – It is presumed that other questions against which no answer has been recorded were not put to the appellant.

The object of examination of the accused U/s. 313 Cr.P.C. is to give the accused an opportunity to explain the case made against him – In the present Case no material circumstance appearing in the evidence against the appellant were put to him – Held, it is a fit case for remand to the trial Court to record the statement of the accused U/s. 313 Cr.P.C. by putting separate questions and dispose of the matter afresh in accordance with law.

(L.Mohapatra, J. & Pradip Mohanty, J.)

GURU NAIK - V - STATE OF ORISSA.
JAIL CRIMINAL APPEAL NO. 4 OF 2003. (Dt.20.05.2009)

INDIAN EVIDENCE ACT, 1872 – SEC.25.

Conviction - Conviction based solely on the extra Judicial confession made by the appellant before the Grama Rakhi - Conviction challenged on the ground that Gram Rakhi is a Police Officer and confession made before him is inadmissible in evidence.

A Division Bench of this Court held an extra judicial confession made in presence of a Gram Rakhi, who is a Police Officer is not admissible in evidence- But in a later decision this Court came to the conclusion that only when an officer is empowered to investigate and submit final form U/s. 173 Cr.P.C. can be held to be a Police Officer U/s. 25 of the Evidence Act.

Rule of perincuriam can be applied where a Court omits to consider a binding precedent of the same Court or the superior Court rendered on the same issue - Bench of Co-ordinate jurisdiction disagrees with another Bench of Co-ordinate jurisdiction on a question of law – Direction to place the matter before the Hon'ble Chief Justice to constitute a larger Bench to examine the question whether Gram Rakhi is a Police Officer or not.

(L.Mohapatra, J. & Pradip Mohanty, J.)

SUNARAM GOALA –V- STATE OF ORISSA.
JAIL CRIMINAL APPEAL NO. 176 OF 1999. (Dt. 20.05.2009)

CRIMINAL PROCEDURE CODE, 1973. Sec - 313

Appellant was found going away from the place of occurrence with the weapon of offence which was witnessed by P.W.2 – P.W.14 deposed that the appellant surrendered in the Police Station and handed over the weapon of offence – Weapon of offence stained with human blood of group 'B' which is the blood group of the deceased.

The appellant has not explained in his statement U/s. 313 Cr.P.C. as to how human blood of group 'B' was found on his wearing apparels and the weapon of offence handed over by him to P.W. 14 in presence of P.W.10.

Held no infirmity in the impugned judgment convicting the appellant for the offence U/s. 302 I.P.C.

(L.Mohapatra, J. & B.N. Mahapatra, J.)

STATE OF ORISSA -V- MUNA @ MADHUSUDAN KAR & ORS.
GOVERNMENT APPEAL NO. 28 OF 1994. (Dt.20.05.2009)

CRIMINAL PROCEDURE CODE, 1973 – SEC. 378 (1).

Appeal against order of acquittal - PW.1 & 4 are eye witnesses to the occurrence - They have given direct evidence with regard to assault - No dispute regarding the identification of the accused persons - No good reason as to why the trial Court has discarded their evidence - Though there are some material discrepancies about the weapon of offence but as the weapons are similar to each other it is not expected of each of the witnesses to say the exact name of the weapon of offence as they may not be acquainted with the names of different weapons.

There are direct materials against all the appellants - Evidence of P.W.9 who deposed about the previous day's occurrence proves the motive of the appellants - Held, judgment and order of acquittal passed by the Trial Court is set aside and all the respondents are convicted U/s. 302/34 I.P.C. and sentenced to undergo imprisonment for life.

(L.Mohapatra, J. & Pradip Mohanty, J.)

SRI KALYAN MAHANTY -V- P.O., DEBTS RECOVERY TRIBUNAL CUTTACK & OTHERS.
W.P. (C) NO.10608 OF 2005 (Dt.20.05. 2009)

(A) RECOVERY OF DEBTS DUE TO BANKS & FINANCIAL INSTITUTIONS ACT, 1993 - SEC.20.

Any order passed by the Tribunal – Not confined to the final order alone - An appeal can lie to the Appellate Tribunal.

(B) CONSTITUTION OF INDIA, 1950 - ART. 226.

Alternative remedy – Order passed by the Debts Recovery Tribunal - Appeal lies U/s. 20 of the Recovery of Debts due to Banks and Financial Institutions Act – This fast track procedure can not be allowed to be derailed by taking recourse to proceedings under Article 226 & 227 of the Constitution of India – This Court not inclined to entertain the Writ petition.

(L. Mohapatra, J. & B.N.Mahapatra, J.)

**MADHUSUDAN DIKSHIT -V- UCO BANK REPRESENTED THROUGH ITS
GENERAL MANAGER (PERSONNEL).**
O.J.C. NO. 4838 OF 2002. (Dt. 21.05.2009).

CONSTITUTION OF INDIA, 1950 – ART. 311.

Disciplinary inquiry – Inquiry report- When the Inquiry Officer is not the disciplinary authority the delinquent employee will have the right to receive the Inquiry Officer's report notwithstanding the nature of the punishment -The employee may ask for the report or not but the report has to be furnished to him.

In the present case the inquiry report was not supplied to the petitioner - He was deprived of making a representation which amounts to denial of reasonable opportunity – Held, impugned order of punishment is quashed.

(I.M.Quddusi, ACJ & B.P.Ray, J.)

BIRANCHI NARAYAN DAS & ORS. - V- STATE OF ORISSA & ORS.
O.J.C. NO. 11342 OF 2000. (Dt.21.05.2009)

CONSTITUTION OF INDIA, 1950 - ART. 300 - A.

Town Planning Scheme prepared by Bhubaneswar Development Authority (BDA) - Petitioner contributed an area of AC 1.837 decimals - Subsequently Town Planning Scheme was withdrawn - Petitioner made application to get back the above land - Application rejected - Hence this Writ petition.

It is the common law that no body can be compelled to give his land and deprived of his property - The Government could not have compelled the petitioners to part with their land under the threat that failing which, their layout plan would not be passed - So the gift of land was not by free will but under threat - Held, direction issued to Opp. 1 to allot equivalent extent of land (Ac.1. 837 dec) having similar potential value to the petitioner.

(I.M.Quddusi, ACJ. & B.P.Ray, J.)

**JITESH KUMAR NAYAK & 6 ORS -V- ORISSA PUBLIC SERVICE COMMISSION
& TAPAN KUMAR MOHAPATRA & 4 ORS -V- O.P.S.C. & ORS.
STATE OF ORISSA & ANR. -V- TANAY KUMAR ROUT & 2 ORS.
W.P.(C) NOS. 3981, 2992 & 4796 OF 2009 . (Dt.21.05.2009)**

CONSTITUTION OF INDIA, 1950 - ARTS. 14 & 16.

Reservation in Public Employment - Resolution of Government Curtailing number of vacancies due to reservation of SEBC to the extent of 27% - Resolution challenged before Orissa Administrative Tribunal as total number of reserved vacancies exceeded 50% of the vacancies - Direction of the Tribunal to Publish the results in favour of unreserved categories and directed to defer the main examination - The OPSC challenged the order in Writ petition - This Court passed an interim order Dt. 23.05.08 which was challenged before the Apex Court - Apex Court declined to interfere.

Held, resolution providing 27% of reservation for SEBC which was quashed by the Tribunal is upheld - Examination held as per the resolution was illegal and result of the said examination is not required to be published and direction of the Tribunal to have a 2nd main examination for residue Candidates is not in consonance with the rules and to that extent the same is quashed and the OPSC is to conduct one common examination where all the Candidates appeared in the main examination and the residue Candidates shall be allowed to appear.

(B.P.Das, J. & B.P.Ray, J.)

**RAM CHANDRA BARAL & ORS -V- STATE OF ORISSA.
CRIMINAL APPEAL NO. 326 OF 1995. (Dt.21.05.2009.)**

INDIAN PENAL CODE, 1860 – SEC. 147, 149 & 364.

Charge U/s. 364 I.P.C. – Omnibus statement of witnesses implicating all the 34 accused persons to have lifted the deceased from the Melan field – Charge U/s. 147 & 149 I.P.C. could not be established as the Prosecution failed to prove by way of evidence that each of the accused persons lifted the deceased from the Melan field – Held, appellants, could not have been convicted for the commission of offence U/s. 364 I.P.C without the aid of Section 147 and 149 I.P.C.

(L.Mohapatra, J. & B.N.Mahapatra, J.)

**BAPI @ DEBADUTTA RATNAKUMAR PATRA -V- STATE &
GOUR CHANDRA MAHARANA -V- STATE OF ORISSA
CRIMINAL APPEAL NO. 38 OF 2006 & 61 OF 2006. (Dt. 21.05.2009)**

INDIAN PENAL CODE, 1860 - SEC. 376 (2) (g).

Rape - Delay in lodging F.I.R.- Special Judge convicted the appellants holding that when family prestige involved delay in lodging F.I.R is inevitable - Hence the appeal.

In this case delay is more than five days - Victim is a widow having a 6 years old daughter - Since she had already disclosed the incident before the Gramrakhi, her brother and a lady doctor it can not be said that because of family prestige she did not lodge the F.I.R. - So delay in lodging F.I.R. remains unexplained and is fatal to the prosecution case - Moreover her statement before the Doctor P.W.1 that her mense stopped for two months and she had sex with two persons but she never told P.W.1 that the accused persons had committed rape on her- Moreover none examination of the persons before whom she disclosed about the occurrence weakened the prosecution case.

Held, Prosecution failed to prove its case beyond any reasonable doubt -There is also strong motive for false implication of the accused persons- Hence appellants are acquitted of the charge.

(L.K.Mishra, J.)

HIMANSU KUMAR KAR -V- CHIEF GENERAL MANAGER, STATE BANK OF INDIA & ANR.
W.P.(C) NO. 10362 OF 2006. (Dt. 29.06.2009)

THE ORISSA CIVIL SERVICE (REHABILITATION ASSISTANCE) RULES,1990 - RULE - 5.

Compassionate appointment - Father of the petitioner died in harness being affected by AIDS - Mother of the petitioner applied for employment -She was given appointment but in the guise of non-production of Western Blot Test Report she was not allowed to join - She wrote a letter to the Bank that if she is physically unfit her first son (the petitioner) be given appointment so that the distressed family can get their daily bread - Two months after she died due to Cerebral Malaria - Immediately after her death petitioner applied for appointment as he was still in distress - Non consideration of his application - Hence the Writ petition.

Not allowing the petitioner's mother to join in the Bank is discriminatory so also non consideration of the petitioner's case for compassionate appointment -

Unfair discrimination - Violative of Articles 14, 16 & 21 of the constitution of India - Held, Opp.Parties are directed to provide an employment to the petitioner in a post suitable to his qualification.

(B.P.Das, J & B.P.Ray, J.)

BIJAYA KUMAR SAHOO -V- COMMANDANT, 149 BATTALION, CRPF, BBSR & ORS.
W.P.(C) NO. 4375 OF 2005, (Dt.29.06.2009)

CENTRAL CIVIL SERVICES (TEMPORARY SERVICES) RULES, 1965 - RULE 5(1)

Termination from service - Petitioner filed representation Under Rule 5 (2) (a) to recall the Order-Representation rejected - Hence this Writ petition .

Petitioner sustained injury during the basic training period who was serving as a Constable - Declaration of the Authorities that the petitioner was not fit to resume the training for the post in question is neither illegal nor arbitrary - However the prayer of the petitioner to adjust him in any Class-IV post has not been taken into consideration - Held, impugned order is quashed and the appellate authority is directed to reconsider the case of the petitioner if he can be adjusted in any Class - IV post keeping in view the fact that he was selected and appointed as Constable (GD) after coming out successful in the written test as well as in the rigorous physical tests and is eager to serve the Force.

(B.P.Das, J. & R.N.Biswal, J.)

STATE OF ORISSA -V- WATEKA MANI.
GOVT.APPEAL NO.05 OF 1997. (Dt.29.06.2009)

(A) CRIMINAL TRIAL - Appreciation of evidence - Conduct of the respondent - husband who did not disclose about the fact of death of his wife for more than twelve hours and in a camouflage manner informed the parents of the deceased on the day following the death, that his wife is seriously ill and

may die at any time and if they want to see her they may come to his house - It is also evident from the Post-Mortem report that his wife already expired by the time such information was given to the parents of the deceased - Held, keeping the dead body in the home for such a long time and not informing others, leads to a reasonable conclusion that the accused - respondent was guilty.

(B) MENSREA – Both respondent and his wife belong to S.T. community- On the date of occurrence they had consumed liquor- In an intoxicated condition the respondent assaulted his wife , there by causing her death – Law is well settled that mensrea is one of the basic requirements which leads to determine the homicidal character of the offence.

In the present case prosecution totally failed to establish the motive of the accused respondent – Held, this Court modifies the charge U/s. 302 I.P.C. to one U/s. 304 Part-II I.P.C. and convict the respondent under the said section.

(A.S.Naidu, J & S.C.Parija, J.)

PRANABA KUMAR PANDA -V- STATE OF ORISSA & ORS.
WRIT PETITION (CIVIL) NO.5561 OF 2002. (Dt.30.06.09.)

CONSTITUTION OF INDIA, 1950 – ART. 16 & 226.

Regularisation of service in public employment - Petitioner appointed as a temporary employee and worked for the BDA since 1994 and his application had been sent to the authorities through proper channel - Board in its 44th meeting approved posting of a junior Engineer (Mechanical) in the existing vacancy of a junior Engineer (Civil) - Hence there is need for the service of a junior Engineer (Mechanical) - Employment of the petitioner can not be treated as “ back- door-entry ”.

Held, direction to the BDA to consider the case of the petitioner for regularisation within a period 3 months - However from 17.11.99 till 02.11.2001 the petitioner shall not be entitled to claim any salary on the principle of “No work no pay” but the same shall not be treated as break in service and shall be counted both for seniority, promotion as well as retiral benefits.

(B.P.Das, J. & Indrajit Mahanty, J.)

MAJOR EVENTS

1. Inauguration of the Court of Civil Judge (Sr. Dvn.), Kodala and Khallikote.

The Courts of Civil Judge (Sr. Dvn.) has been inaugurated at Kodala and Khallikote in the Judgeship of Ganjam by Hon'ble Dr. Justice B.S.Chauhan, the then Chief Justice of Orissa High Court on 4.4.2009 in presence of Hon'ble Shri Justice R.N.Biswal and Hon'ble Shri Justice B.N.Mahapatra, Judges of Orissa High Court.

2. Inauguration of the New Court Building at Khariar.

The New Court Building at Khariar in the Judgeship of Kalahandi has been inaugurated by Hon'ble Dr. Justice B.S.Chauhan, the then Chief Justice of Orissa High Court on 11.4.2009 in presence of Hon'ble Shri Justice Pradip Kumar Mohanty, Judge, Orissa High Court.

3. Inauguration of the Executive Magistrate Court at Cuttack

Hon'ble Shri Justice I.M.Quddusi, Acting Chief Justice, Orissa High Court inaugurated the Court of Executive Magistrate at Cuttack on 20.06.2009. Hon'ble Shri Justice B.P. Das, Judge, Orissa High Court, Shri M.M. Praharaj, IPS, DG & IG of Police, Orissa and Shri B.K. Sharma, IPS, Commissioner of Police graced the occasion.

4. Observance of Lawyers' Day.

To commemorate birth anniversary of late Utkal Gourav Madhusudan Das, 28th April of every year is being observed as "Lawyers' Day". This year also it was observed on 28.4.2009 in the Court premises. Hon'ble Judges of the Court and Members of the Bar offered floral tributes to the Statue of Utkal Gourav Madhusudan Das as a mark of respect to the revered soul. All the officers and staff of the Court also attended the ceremony.



ACTIVITIES OF ORISSA JUDICIAL ACADEMY

During the period, following training programmes are organized in Orissa Judicial Academy imparting training on the topics as hereunder.

Sl. No.	Duration of the Programme	Course contents of the Training	Cadre of Officers participating	No. of Officers participated.	Remarks
1.	15.4.2009 to 12.6.2009	First Foundation Course	Civil Judges on Probation (Newly recruited Judicial Officers)	28	Civil Judges = 28
2.	18.4.2009 & 19.4.2009	N.D.P.S. Act and SC & ST (P.A.) Act	District Judges	23	Dist. Judges. = 23
3.	31.5.2009	High Court Rules & Court Fees Act	Superintendents of Orissa High Court	18	Superintendent = 18

ACTIVITIES OF ORISSA STATE LEGAL SERVICES AUTHORITY

On 2.5.2009 commemorating the **Labour Day** the Orissa State Legal Services Authority in collaboration with the department of Panchayati Raj and the department of Labour and Employment had organized **State Co-operation Dialogue with regard to Implementation of Orissa Building and Other Construction Workers (Regulation of Employment and Conditions of Service Act), 1996** at Hotel Dwarika. It was inaugurated by Hon'ble Dr. Justice Arijit Pasayat, the then Judge of Supreme Court of India and the Executive Chairman of National Legal Services Authority. Hon'ble Dr. Justice B.S. Chauhan, the then Chief Justice of Orissa High Court and now Judge Supreme Court of India was the Chief Guest. Sri Ajit Kumar Tripathy, IAS., Chief Secretary of Orissa was the Guest of Honour in the function. Hon'ble Mr. Justice I.M. Qudusi, Judge, Orissa High Court and the Executive Chairman, Orissa state Legal Services Authority had presided over the function. Hon'ble Mr. Justice P.K.Tripathy, Judge, Orissa High Court had delivered Welcome address. Mr. Jagar Singh, IAS, Secretary, Labour and Employment Department had extended vote of thanks. All the Hon'ble Judges of the High Court were present. This Seminar was organized to sensitize the judicial officers, bureaucrats, officers of Labour Department and other stake holders about the beneficial provisions of the Act meant for the protection of the Building and Construction Workers.

The Seminar had two sessions. The subject of discussion of first sessions was Safety/ Health Measures and Procedures for collection of cess under the Act. This session was chaired by Hon'ble Mr. Justice B.P. Das, Judge, Orissa High Court and Sri Santanu Mishra, Director & Chief Inspector of Factories and Boilers was the speaker on the subject.

The subject of discussion of valedictory session was "Welfare measures for the construction workers: legal and Administrative arrangements under the Act. This session was chaired by Hon'ble Mr. Justice L. Mohapatra, Judge, Orissa High Court. The speakers were Hon'ble Mr. Justice S.R.Singharavelu, Judge, Orissa High Court and Sri Suraj Bhan, Director, Ministry of Labour and Employment Department, government of India. The valedictory address was delivered by Hon'ble Dr. Justice B.S. Chauhan, the then Chief Justice of Orissa High Court and now Judge, Supreme Court of India.

The officers of the High Court Registry, Chairman and Secretaries of District Legal Services Authorities, Collectors, P.D., DRDA, the senior officials of Urban Development and Works Department, Engineer-in-Chief (works), Engineer-in-Chief (Water Resources), Chief Engineer Rural Works/ RWSS / Roads and Building, Chief General Manager, IDCO(Works), Managing Director, Police Housing Corporation/ Orissa Bridge Construction Corporation and Orissa Construction Corporation, Deputy Labour Commissioners, Labour Inspectors were the participants in the Seminar.

On 22nd June, 2009 a **Seminar on “Competition Law : Challenges and Answers”** was organized by this Authority in association with the Competition Commission of India, Food Supplies and Consumer Welfare Department, Government of Orissa, Orissa State Bar Council, Utkal Chambers of Commerce & Industries, Orissa and All Orissa State Bar Association in New Conference Hall of Orissa High Court. The seminar was inaugurated by Shri Naveen Patnaik, Hon’ble Chief Minister of Orissa, Dr. M. Veerapa Moili, Hon’ble Union Minister, Law and Justice was the Chief Guest. Hon’ble Dr. Justice Arijit Pasayat, Former Judge, Supreme Court of India & Chairperson, Competition Appellate Tribunal had delivered keynote address. Sri Sarada Prasad Nayak, Hon’ble Minister, Food Supplies and Consumer Welfare, Government of Orissa and Shri Dhanendra Kumar Chairman, Competition Commission of India, delivered special address in this seminar. Hon’ble Mr. Justice I.M. Quddusi, Acting Chief Justice, Orissa High Court had presided over the Seminar. Sri Gopal Krishna Mohanty, Chairman, Orissa State Bar Council delivered welcome address and Sri S.N.Sahu, President of Orissa Tax Bar Association had extended vote of thanks in the inaugural session. All the Hon’ble Judges of the High Court were present. This seminar was organized by the State Authority to sensitize businessmen, bureaucrats, industrialists and other stakeholders about various aspects of Competition Law which ensures fair competition by prohibiting trade practices, which cause appreciable adverse effect on competition in markets and protect the interest of the consumers.

The Seminar had two Technical Sessions. The subject of discussion of Technical Session-I was “Competition Law in India”. This technical session was chaired by Hon’ble Sri Justice P.K. Tripathy, Judge, Orissa High Court, Mr. Dhanendra Kumar, Chyairman, Competition Commission of India, Mr. A.K.Tripathy, IAS, Chief Secretary, Government of Orissa, Mr. K.K. Sharma, Advisor, Competition Commission of India, Mrs. Pallavi Shroff, Partner, Amarchand & Mangaldas & Suresh A. Shroff & Co., representatives of Utkal Chambers of Commerce & Industry and representatives of Orissa High Court Bar Association had delivered their speech on different aspect of Competition Law. Sri S. Mohanty, Member Secretary, Orissa State Legal Services Authority had delivered welcome address.

The subject of Technical Session-II was “Relevance of Competition Law in Indian Context & its Enforcement. This session was chaired by Hon’ble Sri Justice B.P.Das, Judge, Orissa High Court. Mr. P.N. Parashar, Member, Competition Commission of India, representatives of Orissa State Bar Council, Cuttack Chambers of Commerce, Orissa Tax Bar Association, Mr.Suhail A. Naithani, Partner, Economic Law Practices had delivered their speech on the subject. Sri S.K.Mishra, Registrar (General), Orissa High Court had delivered welcome address in this session. The valedictory session was chaired by Hon’ble Mr. Justice L.Mohapatra, Judge, Orissa High Court. Mr. D.Rout, Registrar (Judicial), Orissa High Court extended vote of thanks.

During the period under report three **Mediation Centres** have been inaugurated in the Civil Court premises of Balasore, Baripada on 25.4.2009 and at Jeypore on 28.4.2009 by Hon’ble Mr. Justice I.M.Quddusi, Judge, Orissa High Court and the Executive Chairman,

Orissa State Legal Services Authority. 303 Civil Cases, 83 Criminal Cases, 22 Money suits and 5 Pre-litigations cases have been disposed of on the date of inauguration of these three Mediation Centres.

On 25.4.2009 an Awareness Programme on Mediation was organized by Orissa State Legal Services Authority in the Collectorate Conference Hall of Baripada under the aegis of Supreme Court Mediation and Conciliation Project Committee, New Delhi. The said programme was inaugurated by Hon'ble Mr. Justice I.M.Quddusi, Judge, Orissa High Court and the Executive Chairman, Orissa State Legal Services Authority. Two Mediators namely Ms.Uma Ramanathan and Ms. Geeta Ramasheshan of Tamil Nadu Mediation & Conciliation Center had imparted training to the Judicial Officers and the advocates of the district of Mayurbhanj to make them aware about the skills of mediation so that they can utilize those skills for disposal of cases through mediation process.

The State Legal Services Authority had observed "**World Day Against Child Labour**" in association with Jeevan Rekha Parishad at Red Cross Bhawan, Bhubaneswar on 12.6.2009 and launched week long campaign to stop the practices of Child Labour. All the District Legal Services Authorities and Taluk Legal Services Committees have observed "**World Day Against Child Labour**" in their respective jurisdiction. Further, all the District Legal Services Authorities and Taluk Legal Services Committees of the State have observed "**National Legal Aid Week for Labour Communities** (May Day) 1st May to 7th May, 2009 as per instruction of National Legal Services Authority, New Delhi.

During the period under report, **State Level Lok Adalats** were held at Dhenkanal on 18.4.2009, Puri on 9.5.2009 and Balasore on 16.5.2009 respectively, in which, 278 numbers of MACT cases have been settled/ disposed of on conciliation and a sum of Rs.3,49,19,700/- has been awarded as Compensation. Similarly, 150 numbers of **District and Taluk Level Lok Adalats** and 319 numbers of **Legal Literacy/Awareness Camps** have been organized in the State of Orissa. In the above District and Taluk Level Lok Adalats 22,604 numbers of cases have been disposed of in total, which includes Civil-273, Criminal 8762, Revenue-12,374, Bank-1153, Matrimonial-6 and Consumer-36, Criminal Fine of Rs. 17,98,354/- and Revenue Collection of Rs.48,02,227/- have been realized in the above noted cases.

The benefits of the Scheme of Legal Aid and Assistance have been extended to 659 numbers of persons, which include SC-76, ST-68, OBC-40, Women-282, Children-1, In-custody-22 and other weaker sections of the society-171.



Observance of Lawyers' Day on 24.4.2009
(Birth Anniversary of Late Utkal Gourav Madhusudan Das)



Hon'ble Dr. Justice B. S. Chauhan, Chief Justice, Orissa High Court delivering the letter of appointment to
Prof. (Dr.) Faizon Mustafa as Vice-Chancellor, National Law University of Orissa (NLUO).