

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 7469 of 2017

Registrar (Judicial), Orissa High Court, Cuttack **Petitioner**

Mr. Mohit Agarwal, Amicus Curiae
-versus-

Union of India and Others ... **Opposite Parties**

Mr. P.K. Parhi, Assistant Solicitor General
Mr. Debakanta Mohanty, Addl. Govt. Advocate
Mr. Ishwar Mohanty, Addl. Standing Counsel
Mr. Akhaya Biswal, Advocate
Mr. B.P. Pradhan, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK

ORDER
30.06.2022

Order No.

69. 1. An affidavit dated 22nd June, 2022 has been submitted by the Collector, Kendrapara. A copy of the affidavit shall be served on Mr. Mohit Agarwal, learned Amicus Curiae (AC) within two days. The said affidavit encloses reports of the Tahasildar, Rajkanika regarding superimposition of satellite map over cadastral maps to identify the exact locations of the illegal prawn gherries. One report covers 74 villages and other 51 villages. It is claimed that 59 active illegal prawn gherries were identified as being inside the High Tide Line (HTL) and they have been issued notices to discontinue the illegal practice. 26 of the gherries are stated to have been demolished. It is stated that in 23 other villages, eviction

action has been commenced. The Collector undertakes to file a further compliance affidavit before the next date.

2. The Collector, Ganjam has filed an affidavit dated 22nd June, 2022 *inter alia* stating that the Tahasildars of Ganjam and Khallikote visited the field and noticed two illegal gherries having remerged; one in Ganjam and another in Khalikote. The one in Ganjam is stated to have been demolished on 25th May, 2022 and the one in Khallikote on 8th June, 2022. It is stated the FIR has been lodged against the encroachers. The photographs showing the demolition action have been enclosed. The said affidavit is taken on record. It is assured that the District Administration will carry out regular surveillance and ensure that the illegal gherries do not re-emerge. A further updated status report be filed before the next date.

3. An affidavit dated 21st June, 2022 has been filed by the Collector, Puri where *inter alia* the steps taken to patrol the area having illegal prawn gherries, have been set out. Some instances of the re-emergence of illegal prawn gherries and their demolition have been set out. It is stated that the complaints received have also been acted upon. The Task Force is stated to have visited the site of the demolished gherries on 16th June, 2022 and found no re-emergence of those gherries.

4. The affidavit states that on 11th May, 2022 the Tahasildar, Krishnaprasad expressed difficulties in ascertaining the precise area within 200 meters of HTL. In this connection on 1st June, 2022 the Chilika Development Authority (CDA) has been

requested to take early steps for identification of HTL within 200 meters in Chilika Lake so that the eviction programme could be taken up.

5. A direction is issued to the CDA to extend its full cooperation to the Collectors of Puri, Ganjam, Kendrapara and Khurda and assist them in the identification of the HTL to enable them to take effective steps to demolish illegal prawn gherries.

6. Likewise, another affidavit has been filed on 22nd June, 2022 by the Collector, Khurda regarding demolition of illegal prawn gherries and the lodging of FIR. The affidavit is taken on record.

7. Wherever the HTL has been able to identified, the earlier system of indicating it by embedding concrete pillars in the water should be adopted.

8. As regards the question of pollution in Chilika lake and the Bhitarkanika lagoons, Mr. Mohit Agarwal, learned AC has urged that this Court should issue time-bound directions to the Orissa State Pollution Control Board (OSPCB) to test the quality of the water in both water bodies. Accordingly, OSPCB is impleaded as an Opposite Party in the present petition. Mr. Agarwal, learned AC will file a revised memo of parties within a week. Notice without process fees will issue to the OSPCB returnable on the next date.

9. A direction is issued to the OSPCB to depute a technical team to test the quality of the water in both the Chilika lake as well as the lagoons in Bhitarkanika and file its report in this Court containing the test results and the suggestions of the OSPCB for improving the quality of water in both water bodies.

10. A copy of this order be communicated to the Secretary, OSPCB forthwith for compliance.

I.A. No.4462 of 2022

11. An affidavit dated 21st June, 2022 has been filed stating that none of the lands of the interveners in this application in the Khata Numbers indicated are coming within the two hundred meters of the HTL of Chilika Lake and no coconut trees and palms exist either. The affidavit is placed on record.

12. In view of the above affidavit, Mr. Mohanty, learned Additional Government Advocate states that no coercive action is proposed to be taken against the any of the applicants in the I.A. The statement is placed on record.

13. The application is disposed of.

I.A. No.5774 of 2022

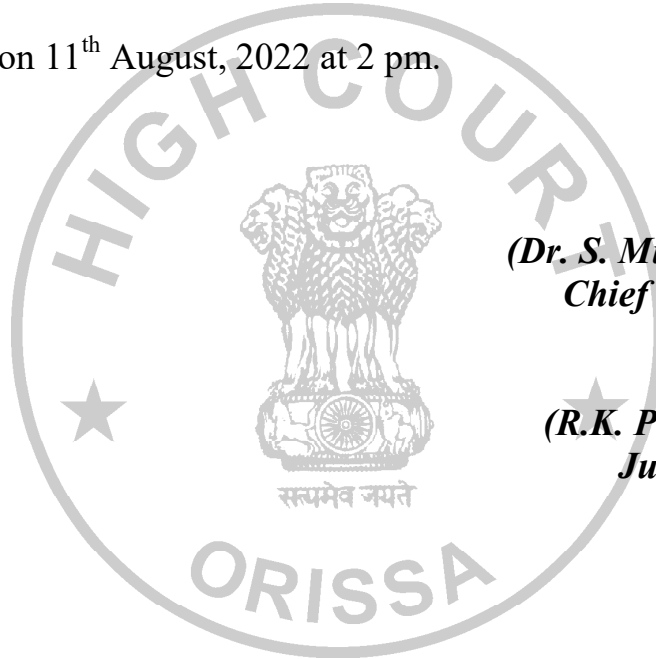
14. An affidavit dated 21st June, 2022 has been filed by the Tahasildar, Chilika stating that the applicant had been allowed to operate the source i.e. Sabik Plot No.233 under Khata No.116 Rakhita Anabadi with an area of Ac 81.679 decimals from 1st April, 2002 to 31st March, 2003 as the highest bidder after which the source has not been auctioned. It is accordingly, submitted that the applicant has no legal right over the land. The land in question is recorded in Kissam Gochar and at present it is a government land. It is stated that steps will be taken to demolish the gherries and earthen ponds coming under 100 meters considered as no development zone.

15. In that view of the matter, the status quo ordered earlier is vacated. The application is disposed of. It will be open to the authorities to take appropriate action in accordance with law.

I.A. No.13647 of 2021

16. Mr. Debakanta Mohanty, learned Additional Government Advocate seeks and is granted one week's more time to file reply to this application. Rejoinder thereto, if any, be filed before the next date.

17. List on 11th August, 2022 at 2 pm.



(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/Secy.