

*Printed  
No.  
19.5.09*

IN THE HONOURABLE HIGH COURT OF ORISSA; CUTTACK  
W.P(C) No.4369/2003

Maitree Sansad  
Sutahat, Cuttack

Petitioner

38A

Versus  
State of Orissa and others

Opposite Parties

Affidavit on the inspection reports submitted by the State Pollution Control Board, Orissa in pursuant to the Order and direction issued by this Hon'ble Court on 8.4.2009 in W.P© No.4369/2003

I, Rabinarayan Mohapatra, Aged.75 Years, Son of Late Lingaraj Mohapatra, Resident of Sutahat , PO:Buxi Bazar, in the town and district of Cuttack do hereby solemnly affirm and state as follows-

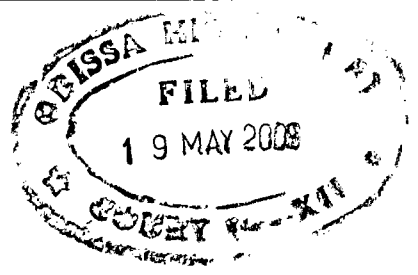
1. That I am the Member and Adviser of the Petitioner-Society and is acquainted with the facts and circumstances of this case, hence swear this affidavit on behalf of the petitioner society.

1.1 That I have gone through the inspection reports submitted by the State Pollution Control Board ,Orissa before this Hon'ble Court and submit as follows

2. That in pursuant to the order and direction of this Hon'ble Court vide their order dated.8.4.2009 passed in W.P(C) No.4369/2003 the State Pollution Control Board submitted two paper books wherein copies of inspection reports carried out by the State Pollution Control Board have been enclosed and in one paper book the copies of the inspection report in respect disposal of bio medical waste in respect of three Government medical colleges and hospitals situated at Cuttack ,Berhampur, Burla, Sambalpur, Sishu Bhawan and City Hospital,Cuttack (Biren Mitra Memorial Hospital,Cuttack)have been annexed and in the other paper book the inspection reports in respect of bio medical wasteof private hospitals and medical colleges and nursing homes operating in Bhubaneswar have been enclosed.

3. That the inspection report of MKCG Medical College and Hospital Berhampur finds place at page 1 to 7 of the Paper Book( relates to Government

*Amulya*  
*18/5/09*  
**A.C. MISHRA**  
ADVOCATE & BARRISTER  
ATTORNEY AT LAW  
ROOM NO. 21/2



Medical College and Hospitals situated at Berhampur, Cuttack, Burla, Sambalpur, Sishu Bhawan and City Hospital, Cuttack). As far as the inspection report of SCB Medical College and Hospital, Cuttack is concerned, the same finds places at page 8 to 13 and as far as Sardar Vallav Bhai Patel Post Graduate Institute of Pediatrics' (SVPPIP) is concerned it finds place at Page 14 to 17 and as far as City Hospital, Buxi Bazar, Cuttack is concerned it finds place at Page 18 to 21 and as far as inspection report of VSS Medical College and Hospital, Burla, Sambalpur is concerned it finds place at Page 22 to 30 of the said Paper Book.

3.1 That at page-5 of the inspection report of MKCG Medical College and Hospital, Berhampur the inspecting Officer has pointed out the violation of some of the provisions of the Bio Medical Waste (Management and Handling) Rules, 1998 by the said hospitals and accordingly recommended/ suggested for taking effective steps for smooth disposal of bio medical waste in the said Hospital.

3.2 That at Page 8 of the inspection report on Bio Medical Waste treatment Plant (incineration and microwave facility) of SCB Medical College and Hospital, Cuttack it has been observed as follows-

**"Authorisation Status**

*Auth for.*

The unit was granted with provisional authorization vide letter No.14181 dated.25.7.2000 and subsequent extension and renewal of authorization to the Hospital have been refused. The unit has deposited authorization fees Rs.73,740.00 for the period 25.7.2006 to 24.7.2009 at R.O. Office without any application form and as such the largest H.C.U of the State has been operating without authorization under Bio medical Waste(M&H) Rules." (Emphasis supplied)

*N. C. Mishra  
Assistant Secretary  
Public Health Division  
Cuttack, Odisha  
Date: 11.05.08*

3 At Page 10 of the said inspection report the Inspecting Officer has recommended /suggested to take effective measures for smooth disposal of bio medical waste material as per the provision of Bio medical waste(M&H) Rules, 1998.

19 MAY 2008

3.4 That at Page 17 of the Inspection Report of SVVIP, Cuttack the inspecting officer has made recommendation/suggestion to the unit to take effective measures for disposal of Bio medical waste as per the provisions of Bio Medical Waste(M&H) Rules,1998. And in the said page( at bottom )it has been suggested for taking action against the said unit as deemed fit.

3.5 That at Page 21 of the Inspection Report of City Hospital ,Cuttack(at present renamed as Biren Mitra Memorial Hospital) the inspecting officer has recommended /suggested to take effective measures for smooth disposal of bio medical material as per the provision of Bio medical waste(M&H) Rules and in the said page at bottom it has been suggested for taking action as deemed fit.(Emphasis Supplied).

3.6 That at page 25 of the inspection report of VSS Medical College and Hospital Burla,Sambalpur is concerned, the inspecting officer has suggested for a permanent bio medical waste management cell to be created in the Hospital Headed by a doctor and supporting staffs for smooth implementation of Bio Medical Waste(M&H) Rules in the Hospital premises and made the following remarks.

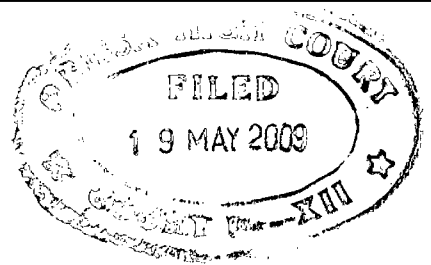
(i) Collection and segregation of bio medical waste generated from the Hospital premises was found to be not satisfactory.

(ii) Organized liquid based collection net work followed for effluent treatment plant shall be developed for the treatment of liquid based generated from the Hospital premises.

3.7 That at page 1 of the Inspection report relates to Health Care Unit under Bio Medical Waste(M&H) Rules,1998(M/s Abinas Clinic and Nursing Home, Saheed Nagar,Bhubaneswar), the Inspecting Officer has made the following observation.

" This Nursing Home has 30% occupancy. It does not follow collection ,segregation practice as per the rules. The maintenance of the record of the bio

*and*  
A. C. WISHRA  
ASSISTANT COMMISSIONER  
CUTTACK DISTRICT (B&H)  
2008.05.19



medical waste is not followed on daily basis, the unit has been advised to maintain records, submit annual reports in Form-II and accident report if occur in Form-III. And accordingly in clause 14 of the said report it has been recommended/suggested for grant of authorization to be considered and the unit may be asked to submit the annual report.”

3.8 That at page 2 of the said inspection report relates to Aditya Care Hospital, Bhubaneswar. In the said report the Inspecting Officer has made the following observation-

“This is a hospital having 100 beds.

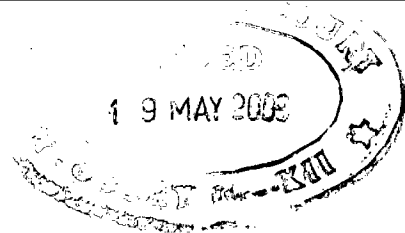
The Bio Medical Waste is not segregated and mixed up with general waste at some places. However steps have already been initiated for proper segregation of bio medical waste. Colour coded containers are provided as per rules. and accordingly recommended that the Hospital Authority is desired to be more vigilant for proper segregation of bio medical waste and mutilation of waste sharps and solid waste at the sources of generation.”

3.9 That the inspecting Officers have also made some observation and suggestion and recommendation to almost all units and private Hospitals operating in Bhubaneswar wherein the inspecting officers have pointed that almost all the units /establishment in Bhubaneswar have violated the provisions contained in Bio Medical Waste(M&H) Rules, 1998 and accordingly suggested /recommended for taking effective measures for smooth disposal of bio medical waste as per the provisions of Bio Medical Waste(M&H) Rules, 1998.

*Amulya*

**P. S. MISHRA**  
ADVOCATE & NOTARY  
ESTABLISHED FOR 100 YEARS  
2000, No. 20/11

That those recommendations, suggestions of the inspecting officer finds place at page 2,3,4(Sl.No.13 and 14),Page-5 (Sl.13,14), Page 6 (Sl.13 and 14), Page 7(Sl No.13 and 14), Page-8(Sl.No.14), Page-9 (Sl. 14), Page 10(Sl.14) and Page 11,Page 12(Sl.14), Page 13 bottom at Sl. No.14 it has been suggested that a show cause notice may be issued for violation., page 14(Sl. No.14) it has been



suggested that the unit may be advised to maintain record on daily basis and to follow segregation, page 15(Sl.13) it has been observed as follows-"The nursing has 33% occupancy and is following segregation partly . It is advised to maintain record on daily basis, to submit annual report for the calendar year 2008 and to apply for renewal of authorization and the unit may be asked for authorization. At page 16 (Sl. No.13) It has been observed as follows- This clinic does not follow segregation and treatment of waste as per the rules. The un segregated bio medical waste is being disposed to Municipal Corporation without treatment the unit has been advised to maintain record, submit annual report in Form II and accident report in Form III and in clause 14 of the said report it has been suggested that the grant of authorization for the period 2009 to 2011 may not be considered.

5. That at page 17 of the paper book relates to inspection report of Health Care Unit( DashPathology and Diagnostics,Sahid Nagar,Bhubaneswar) under Bio Medical Waste(M&H) Rules,1998 wherein in clause 13 of the inspection report, the inspecting officer has made the following observation-

"This clinic is collecting the blood, urine, stools samples for pathological studies. The Unit follows segregation partly and the needles are mutilated prior to disposal to the Municipal Corporation. However the soiled waste is disposed without treatment in autoclave . The unit has advised to furnish Annual Report in Form -II and Accident Report if any in Form -III."

In Clause 14 of the said report it has been recommended that the authorization of the unit may be exempted with a strict condition to procure an autoclave for the treatment of soil waste.

5.1 That at page 18 of the Paper Book relates to inspection of Health Care Unit (M/s Deepak Clinc-N- Nursing Home,Sahid Nagar,Bhubaneswar) under Bio Medical Waste(M&H) Rules,1998 wherein in clause 13 the following observations have been made by the inspecting officer.

*Amulya*

**R. S. MISHRA**  
ADVOCATE & CHARTERED  
ENGINEER (MACHINERY)  
100, P.O. 22/06/09

19 MAY 2008

" This nursing home has 30% occupancy. It does not follow collection, segregation and mutilation practice as per the rules.

The unit has not responded to the violation letter issued vide letter No.24668 dated.17.10.12007.

The unit has advised to maintain records , submit annual report in Form -II and ~~Accident Report~~ if occur in Form -III and accordingly suggested in clause 14 of the said report to issue show cause notice to the nursing homes for the aforesaid violation."

5.2 That at page 21 of the paper book relates to inspection of Health Care Unit Under (Gandhi Hospital,Bhubaneswar)under Bio Medical Waste(M&H) Rules,1998 wherein it has been suggested in clause 14 that the unit may be advised to maintain daily record by the inspecting officer.

At page 22 of the Paper book relates to inspection report of Health Care Unit (Global Health Care) under Bio Medical Waste(M&H) Rules,1998 wherein clause 14 of the said report it has been suggested /recommended by the inspecting officer as follows-

"The occupier may be advised to intimate this office regarding the aforesaid matter and apply for authorization to operate the unit at the new location and submit the annual report immediately."

5.3 At Page 23 of the Paper Book relates to inspection report of Hemalata Hospital ,Bhubaneswar wherein the inspecting officer has observed as follows-

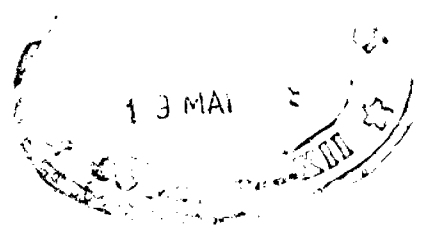
(1) Bio medical waste is not segregated and is mixed up with general waste. No colour code prescribed under the Rules for segregation of waste are followed.

(2) The syringe ,tubes, globes etc are not found to be disfigured and all are found to be mixed up with general waste. This is highly objectionable.

The personnel handling Bio medical waste did not have personnel protective gadgets and transporting bio medical waster in container with dare hands ,pose serious health risk.

**A. C. MISHRA**  
ADDITIONAL CHIEF  
OFFICER (M&H)  
Bhubaneswar, No. 21/08

*amb*



(4) The bio medical <sup>waste</sup> storage area is on open .Untreated infectious bio medical waste are kept as such open in an area in front of Hospital which is easily assessable to stray dogs, cattles , rag pickers etc. This is highly objectionable.

(5) This is a clearly violation of the provisions of the rules.

(6) Un- segregated bio medical waste is handed over to the common facility (M/s Sani clean Pvt Ltd) violating the provisions of the rules.

(7) The representative of the hospital intimated that empty bottle of cytopotoxic drugs are also mixed up with general waste.

Conclusion

The Bio Medical Waste Management of the Unit is grossly inadequate and not as per the provisions of the rules.

(2) Mixing up bio medical waste with general waste is not at all desirable, since the waste generated from a cancer institute is highly infectious. And accordingly the inspecting officer made the following recommendation/suggestion –

(i) immediate action is to be taken for proper segregation of bio medical waste at the source of generation as per colour code.

(ii) Syringe are required to be mutilated and ~~dis~~infected at the point of generation.

(iii) Bio medical waste containment area with proper shed is to be developed for temporary storage.

(iv) show cause notice is to be issued for revocation of authorization order.

6. At page 25 relates to inspection report of Health Care Unit( Hill side nursing home nursing , Khandagiri ,Dumuduma) . In the said inspection report at clause 13 the inspecting officer has made some observation and accordingly recommended/suggested that the hospital may be advised to apply for renewal of authorization.

*auth*

**B. C. MISHRA**  
STUDENT & CONTACT  
OFFICE 10/15 (MISB)  
Bhubaneswar, Odisha

7. That similar inspection reports have been submitted by the inspecting officer of different nursing homes and private medical college and hospital of Bhubaneswar which finds place from page 26 to page 89 of the paper book,

wherein the inspecting officers have made similar observation as above and accordingly recommended /suggested for remedial measures for smooth disposal of bio medical waste material as per the provisions of the Bio Medical Waste(M&H) Rules,1998.

8. That when the inspecting officers of the State Pollution control Board found gross negligence in the matter of disposal of bio medical waste in Government as well as in Private Medical College and Hospitals , Private Nursing Homes in Bhubaneswar, it is incumbent upon the State Pollution Control Board to direct the concerned units/establishment to take effective measures for disposal of the bio medical waste material as per the provisions of the Bio Medical Waste(M&H) Rules,1998 .

9. That as it appears after receipt of the aforesaid inspection reports from the Inspecting officers, the State Pollution Control Board has not taken any practical and effective steps by directing the aforesaid Government Medical College and Hospitals as well as the Private Medical College and Hospitals and Nursing Homes of Bhubaneswar for effective remedial measures to prevent such violation in accordance with law and hence the intervention of this Hon'ble Court is absolutely necessary by directing the appropriate authorities as well as the Govt.of Orissa to take immediate steps for smooth disposal of Bio medical waste in accordance with law. Hence the State Pollution Control Board may please be directed to file an affidavit before this Hon'ble Court indicating the steps taken after receipt of the aforesaid inspection reports from the respective inspecting Officers.

10. That the State Government is also be asked to constitute advisory committee as per rule 9 of the Bio Medical Waste(M&H) Rules,1998 to monitor the same and submit /advised the State Government from time to time and the State Government may also be directed to take action against the Erring Hospitals and nursing homes of the State to put an end to the malady may be by way of penal action as may be deem fit under IPC.

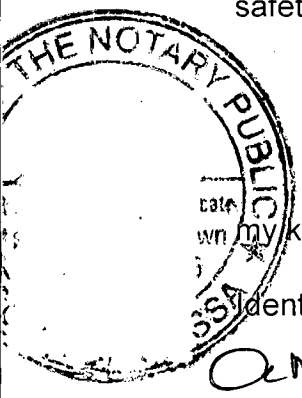
*Ans/Jan*

**A. S. MISHRA**  
ADVOCATE & PARTNER  
ATTORNEY AT LAW (ORISSA)  
ROOM NO. 107, 1ST FLOOR





11. That it will not be out of place to mention here that bio medical waste is regularly dumped in Mahanadi River bed (In between Matamatha and back side of C.B. No.7 of Cantonment Road,Cuttack )causing nuisance, injury to the public in general and the petitioner craves indulgence of this Hon'ble Court to direct the Cuttack Municipal Corporation and Police authority or any other appropriate authority to take practical and effective steps on war footing in the matter for the safety of the residence of the crowding city of Cuttack.



That the facts stated in Para 1 to 11 of this Affidavit are true to the best of my knowledge and belief.

Identified by- A. Mohanty

Advocate

Raj Narayan  
Deponent  
Mohapatra

Verification

The above named deponent is being identified by A. Mohanty,

Advocate and on solemnly affirmation states that the facts stated in this Counter Affidavit are true to the best of his knowledge and belief.

Cuttack  
18-5-09

R. C. Mishra  
18-5-09  
Notary Public MISHRA  
ADVOCATE & NOTARY  
CUTTACK TOWN (ORISSA)  
REGD. NO. 21/05

Certificate

Due to non-availability of Cartridge Paper this Counter affidavit is being typed on thick paper.

A. Mohanty  
Advocate

Solemnly affirm on oath by the deponent at Cuttack on 18-5-09 being identified by A. Mohanty Advocate.

R. C. Mishra  
R. C. MISHRA, Advocate, Notary,  
Cuttack Town, (ORISSA) Regd. No. 21/05