

Sri Bijan Ray, Senior Advocate,
First STATUS REPORT

Re: W.P. (C) No. 4369 of 2003

Having regard to decline in environmental quality, evidenced by increasing pollution, loss of vegetal cover, biological diversity, excessive concentration of harmful chemicals, biomedical waste in the ambient atmosphere, growing risks of environmental accidents and threats to life support system, the Parliament in its wisdom, resorted to the Constitutional mandates under Art. 48-A, Art.51-A and enacted statutes providing protection and improvement of environment and matters connected therewith. Rules have been framed for implementation of the statutory provisions.

2. Judiciary, the vibrant functional limb of the Constitution, in its anxiety to protect the environment in greater interest of the people, provided the basic shift in the approach to environmental protection. Earlier concept of 'assimilative capacity' rule, got shifted with emphasis on 'Precautionary Principle' as adopted in the Bio Conference of 1992.

3. In a Public Interest Litigation, relating to handling and management of Biomedical Waste, filed by Maitri Sansad, a Social Organization, the Hon'ble High Court of Orissa (CJ & J.M.M.Das), putting into implementation the rule of 'precautionary principle', by order dated 15th November 2006 directed State Pollution Control Board to enquire and report:

- i- regarding the steps taken by the institutions for treatment/disposal of Biomedical Waste;
- ii- whether such disposal is effective in preventing water and air pollution;
- iii- whether the above institutions are complying with the rules; and
- iv- if not, what steps have been taken in curbing such menace.

On the failure of the Board, the Hon'ble High Court (Hon'ble J. A.K.Ganguly, CJ and Hon'ble J.I.Mohanty) entrusted the inspection to me. Please refer to order-sheet dated 27.9.2007 maintained in my office, I have indicated that I will not accept any remuneration/fees for the work, And appropriate orders may be passed on my suggestions indicated therein. (Order sheets Appended at 'A')

5. Questionnaires framed for Hospitals/ Nursing Homes/ Laboratories/ Institutions, and for Municipal Corporations, are appended hereto for perusal of the Hon'ble Court. App.B

5.1 Affidavits have been invited from Public. Publications at App.C.

6. A preliminary inspection of the two premiere Hospitals, namely, SCB Medical College Hospital and Capital Hospital, along with KIIMS (a private owned Hospital of KIITS University) was conducted in presence of petitioner's Advocate on 29th September and 1st October 2007.

Reply to Questionnaire by SCBMC & H at App.D.

7. The fact situation, the preventive measures and the necessary remedial steps in curbing the 'menace' shall be dealt in my final report.

8. But I consider it expedient to draw the attention of the Hon'ble Court to telltale menace of open drains, in the of SCB Medical College Hospital Campus, causing pollution, inflating infection polluting the environment in and around the Hospital Campus.

9. The Construction, repairing and renovation of the entire drainage system in SCB Medical College Hospital are within the domain of the Public Works Department, whereas all such drains and its cleaning operation are the responsibility of the Cuttack Municipal Corporation.

10. Apparently the Cuttack Municipal authorities have been wholly remiss in the performance of their statutory duties, and are equally negligent in providing the residents of this Millennium City their statutory right to live in a clean city and a clean Hospital Campus.

11. Drains in the premises of the SCB Medical College Hospital are: (i) open, (ii) stagnated, (iii) dumped with garbage and waste generated from various sources (of course including waste thrown by public and attendants of patients), and (iv) stinking.

12. The sumps at (i) Behera Colony and (ii) behind Pathology Department are controlled and managed by Sewerage Board. Effluent discharged by Cancer Hospital, Engineering School and SCB Medical College Hospital are connected to these sumps. Contaminated, infected and defiled effluent overflow and perhaps discharge into Taladanda Canal, polluting the canal water.

13. The drains have no discharge point save and except the sumps and the Hospital authorities candidly admitted that on account of callous negligence of Municipal authorities, the drains, which are never cleaned, overflow on the roads during rain, spreading polluted effluent along with

garbage waste. The atmosphere is hazardous for public health.

14. Queries, requests for information have remained un-replied and un-responded by the Municipal Commissioner, Cuttack. Copies of letter and questionnaire - appended at 'E'.

15. Cuttack Municipal Corporation is under statutory obligation to scavenge and clean the city especially the Hospital premises by collecting garbage/waste and clean the drains. Non-availability of funds, inadequacy or inefficiency of staff, insufficiency of machinery cannot constitute grounds for non-performance of such statutory obligations.

16. In my considered opinion:

- A. It is expedient in the interest of justice and public convenience to give an interim direction to C.M.C. for immediate removal of (i) nuisance in the premises of the Hospitals, (ii) clean the drains, (iii) indicate the let-out points of discharge of effluent or in the alternative (iv) set out appropriate discharge points.
- B. A further direction to P.W.D. is necessary to cover the drains within a time stipulated by the Hon'ble Court.
- C. An interim direction to Sewerage Board to make necessary provisions relating thereto with equipments for disinfection.
- D. Government may provide Incinerator both for SCBMC&H and Capital Hospital expeditiously.
- E. Public Health Department, Sewerage Board, Commissioner, Municipal Cuttack and Hospital authorities may put immediate scheme to stop discharge of effluent into Taldan Canal preventing spread of hazardous of infection down stream of the canal used by thousands of villagers both for drinking and bathing.


BIJAN RAY 4.X.