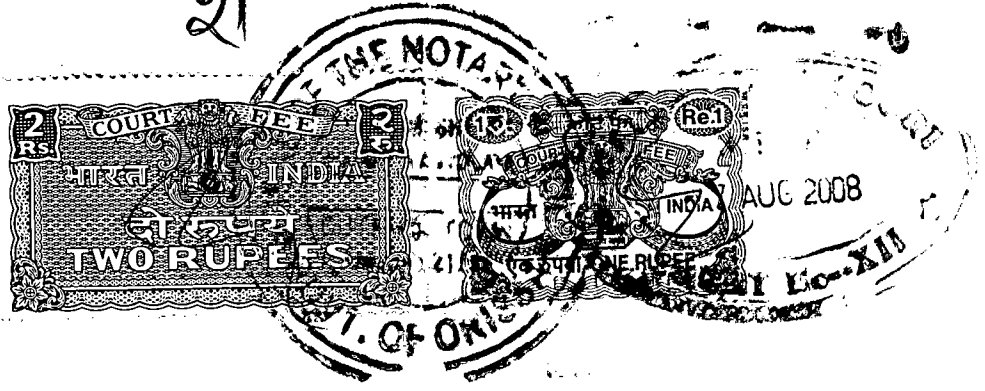


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**IN THE HIGH COURT OF ORISSA CUTTACK**

**W.P.(C) NO. 4369 OF 2003**

Maitree Sansad .....	<b>Petitioner</b>
-Versus-	
State of Orissa and other .....	<b>Opposite Parties</b>

**STATUS REPORT BY WAY OF AFFIDAVIT ON BEHALF OF THE ORISSA WATER SUPPLY AND SEWERAGE BOARD**

I Shri Kshitish Chandra Sahu, aged about 48 years, son of Sri Padmanav Sahu, at present Bijupattnaik Square, Tulsipur, P.S. Tulsipur, Town / District Cuttack do hereby solemnly affirm and state as follows :

1. I am the Project Engineer, in charge of Project Management Unit, Orissa Water Supply and Sewerage Board at Cuttack and I am acquainted with the development of the present case. I have been authorized by the Member Secretary of the Board to swear this affidavit on his behalf. This deponent is aware about the purport and implication of order dated 01.05.2008 and 08.05.2008 passed by this Hon'ble court, directing inter alia that the work relating to design, fabrication and installation "Penstock Gate" shall be completed by at any cost by 15.06.2008. At the outset this deponent tenders apology for inability of the Orissa Water Supply and Sewerage Board, to complete the residuary work within the time specified by this Hon'ble court, though no laches or negligence can be attributed to the Board or this deponent under whose supervision, the work in question is being executed.

2. That it had been highlighted in the previous affidavits filed on behalf of the Board that several unforeseen situations / impediments had cropped up in course of execution of work. Notwithstanding the adversities, both man made and providential, the Orissa Water Supply and Sewerage Board had nearly completed the work within the time frame fixed by this Hon'ble court except installing "Penstock Gate", which however does not create any impediment in functioning of the system.

*GR*  
*7-8-08*

*Received a copy to my e-mail 7/8/08*

*Mr. Adv.*

*07/8/08*  
**STATE JUDGE**  
**CUTTACK (ORISSA)**  
**born. no. 21/08**

*Kshitish Chandra Sahu*

- 7 AUG 2008

3. That it was further stated in the previous affidavit filed on behalf of Orissa Water Supply and Sewerage Board that the drawings and design pertaining to "Penstock Gate" which is a complex mechanical structure, had been referred by the Board to Engineer-in-Chief, Water Resources Department, Government of Orissa, for scrutiny and examination by the design cell of Water Resources Department, since the engineers of the Department have experience and expertise in conceptualizing and executing similar drawings and designs. Certain clarification made by Water Resources Department had been explained. All queries had been duly complied with by Orissa Water Supply and Sewerage Board.
4. That this deponent submits that the main drawing and designs in respect of the "Penstock Gate", is till date under scrutiny and examination of the Engineer-in-Chief, Water Resources Department. This deponent has, however reliably learnt that final shape has been given to such drawing and designs by the Water Resources Department and the same is expected, to be received by Orissa Water Supply and Sewerage Board shortly.
5. That in the meantime, the contractor M/s. Kirloskar Brothers Limited had expressed their complete inability to execute the balance work at the agreement rate dated 08.03.2003. The persuasion made by this deponent to proceed with the balance work, pending approval of his revised claim by the competent authority, had proved abortive. The contractor had given an additional estimate, considering the present market rate, price rise of construction materials as well as labour charges for executing the balance work in connection with Interception and Diversion (I & D) work, Phase-I at Bidyadharpur, Cuttack under NRCP. It is naïve to state here that the contractor had submitted a revised estimate in April 2008 which was further modified by him and finally an enhanced estimate for the balance work had been submitted by the contractor on 13.06.2008.
6. That this deponent, who does not have the power to deal with the matter and / or take any decision, had referred the matter to the Member Secretary, who in turn had made a reference to the Housing & Urban Development Department for approval of the revised estimated cost. The Under Secretary, Housing & Urban Development Department by letter dated 13.06.2008 had requested the Member Secretary to convene the Tender Committee finally on 17.06.2008. Accordingly the Tender Committee had sent their recommendation, on the enhanced estimate submitted by the contractor to the Government.

Copy of the letter dated 13.06.2008 sent by the Under Secretary, Housing & Urban Development Department to the Member Secretary is filed herewith and marked as **Annexure A**.

Rishikesh Choudhary Seher

*Adv.*

*IC*  
 T. C. MISHRA  
 MEMBER SECRETARY  
 CUTTACK TOC (NRCP)  
 Gen. No. 21/08

7. That the matter remained under consideration of the Government and finally by letter dated 24.07.2008 the Under Secretary, Housing & Urban Development Department intimated the Member Secretary, Orissa Water Supply and Sewerage Board that the Government has been pleased to approve the revised estimate. As such the main bottle neck, no longer survives and there is no impediment for execution of the balance work.

Copy of the letter dated 24.07.2008 sent by the Under Secretary, Housing & Urban Development Department to the Member Secretary, Orissa Water Supply and Sewerage Board, is filed herewith and marked as **Annexure B**.

8. That thereafter on the same date, this deponent had intimated the contractor regarding the drawal of a supplementary agreement soon and execution in respect of the balance work within a period of two months.

Copy of the letter dated 24.07.2008 sent by the Project Engineer, Project Management Unit, Cuttack, to M/s. Kirloskar Brothers Limited is filed herewith and marked as **Annexure C**.

9. That accordingly the supplementary agreement has been executed between the Orissa Water Supply and Sewerage Board and M/s. Kirloskar Brothers Limited, on 26.07.2008. The Member Secretary has called upon the contractor to attend his office on 06.08.2008 for discussion on completion of balance work alongwith definite work plan. The representative of the contractor, who is General Manager of the firm has attended the meeting and has submitted a work programme, explicitly undertaking to complete the balance work by 24.09.2008.

A copy of the letter dated 02.08.2008 sent by the Member Secretary, Orissa Water Supply and Sewerage Board to M/s. Kirloskar Brothers Limited is filed herewith and marked as **Annexure D**.

10. That accordingly this deponent, the General Manager, M/s. Kirloskar Brothers Limited, Kolkata had attended a meeting on 06.08.2008, in the chamber of the Member Secretary, Orissa Water Supply and Sewerage Board. In course of such meeting the contractor has submitted a work programme in respect of the balance work indicating the date of commencement and completion of the different components of the works. The aforesaid work schedule programme submitted by the contractor reveals that the work shall be completed by 24.09.2008.

A copy of the minutes of the meeting held on 06.08.2008, in chamber of the Member Secretary, Orissa Water Supply and Sewerage Board and the work programme submitted by M/s. Kirloskar Brothers Limited are filed herewith and collectively marked as **Annexure E**.

Kshitesh Choudhary Saha

*Adv.*

MISHRA  
2008-09-24 10:00 AM  
2008-09-24 10:00 AM

- / AUG 2008

11. That this deponent submits that the Orissa Water Supply and Sewerage Board, this deponent and other engineers have tried that best to complete the entire works within the time specified by this Hon'ble court. There is no deliberate laches, negligence or lapse. The inability to complete the work relating to "Penstock Gate", has occurred due to circumstances beyond the control of this deponent, for which this deponent express genuine regret. In view of the factual developments as delineated in the foregoing paragraphs, this Hon'ble court may be please to extend the time for fabrication and installation of "Penstock Gate" till the end of September. The belief nourished by this deponent which was a legitimate expectation, had not been translated into reality on account of the developments culled above. However, notwithstanding the non-installation of "Penstock Gate", the pumping station is functioning smoothly.

12. That the facts stated and submissions advanced in the foregoing paragraphs are true to the best of my knowledge based on records and informations received which I believe to be true.

Cuttack  
 Dated the 7<sup>th</sup> day of August 2008.  
 Identified by

*Kshitesh Chandan Sahoo*  
 Deponent

*Manoj Kumar Panda*  
 Advocate



Subscribed and sworn to as oath by the  
 Deponent at Cuttack on *07.08.08*  
 being identified by *M.K. Panda*  
 Advocate/Client/Notary personally.  
*[Signature]*  
 A. C. BHISRA  
 NOTARY, CUTTACK 751001, (ORISSA)  
 Regn. No. 21/03