

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16216 of 2019

Odisha State Legal Service Authority ***Petitioner***
Mr. Gautam Misra, Sr. Advocate
Amicus Curiae

-versus-

State of Odisha & Others ***Opposite Parties***
Mr. B.P. Tripathy, AGA

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
20.12.2022

Order No.

16. 1. Three affidavits have been filed on behalf of the State. The first is an affidavit dated 19th December, 2022 by the Special Secretary to Government, Food Supplies and Consumer Welfare Department, Odisha, where on the specific aspect of conduct of social audit, it is stated that the social audit on the functioning of all Fair Price Shops (FPS) under the Targeted Public Distribution System (TPDS), in terms of the National Food Security Act, 2013 (NFSA) has been completed in thirty districts during the financial year 2021-22 by the Odisha Society for Social Audit Accountability and Transparency (OSSAAT), Panchayati Raj and Drinking Water Department.
2. As regards the videography of the social audit meetings and uploading of it in the website of the Odisha State Food Commission (OSFC), a copy of instruction issued on 20th September, 2021 and 15th December, 2021 has been enclosed. The separate affidavits filed by the Additional Secretary to Government in Women and Child Development Department and the Joint Secretary to Government in

PR & DW Department also proceed on the basis as of social audit is to be conducted only of the FPSs. They do not give any particulars of the actual audit of implementation of the various schemes referred to by this Court in its order dated 23rd August, 2021.

3. At this stage, the attention of the Court is drawn by Mr. Gautam Misra, learned Amicus Curiae (AC), to the specific directions issued on 23rd August, 2021 where Court had required the Government to place before it by way of an affidavit “details of the social audit conducted for implementation of all the schemes not limited to TPDS”. The videography of such meetings held as part of the social audit was directed to be uploaded in the website of OSFC. The Court specified in the said order that the social audit should not be confined to the entitlements under the TPDS but include other schemes including the Mid-Day Meal Scheme, Integrated Child Development Scheme (ICDS) and the Maternity Benefit Programme (MBP) as well as any other scheme for implementation of NFSA. Reference was made to Section 28 of the NFSA read with Rule 8(1) and Rule 9(3) of the Odisha State Food Security (Targeted Public Distribution System) Rules, 2020 which also deal with the powers of the District Grievance Redressal Officer (DGRO).

4. The Court, however, finds that the instructions now issued by the Government to the Director, OSSAAT calls for social audit “in at least 3 fair price shops of each district”. This is an incorrect understanding of not only the scope of the NFSA and the Rules thereunder but also of the specific directions issued by this Court on 23rd August, 2021. In other words, the social audit was not meant to be confined to FPSs, and that too only three of them, but of the

implementation of all the schemes referred to in the Court's order dated 23rd August, 2021 in all the districts in Odisha.

5. Mr. B.P. Tripathy, learned Additional Government Advocate, volunteers that a proper exercise will now be undertaken of conducting social audits strictly in terms of the NFSA and the Rules thereunder of all the schemes referred to by the Court in its order dated 23rd August, 2021.

6. It is pointed out by Mr. Misra, learned AC, that under Section 28 (1) of the NFSA, the social audit had to be at the instance of "local authority" which has been defined under Section 2 (8) of the NFSA to include "Panchyat, Municipality, District Board and where Panchyats do not exit, the Village Council or Committee".

7. This Court directs the State of Odisha to ensure that the aforementioned provisions are strictly complied with and the directions issued by this Court on 23rd August, 2021 are adhered to in letter and spirit.

8. Affidavits of compliance of the Special Secretary to Government, Food Supplies and Consumer Welfare Department, Odisha as well as the WCD Department and PR & DW Department of the directions issued on 23rd August, 2021 including the directions issued in the present order should be placed before the Court at least one week prior to the next date.

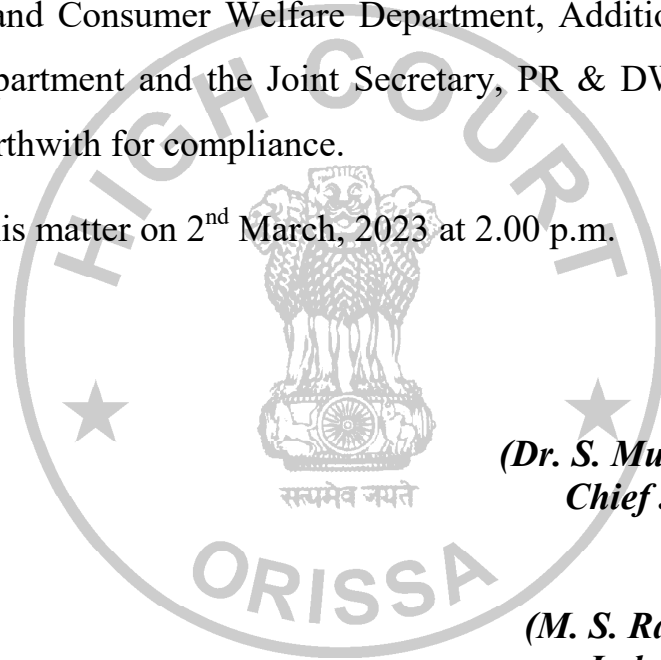
9. The directions issued by the five-Member Committee constituted by the WCD Department in terms of the order dated 23rd August, 2021 passed by this Court are set out in Annexure-E/1 to the affidavit dated 5th January, 2022 filed on behalf of the Opposite

Party No.1. The above affidavits will also indicate the status of compliance of the said directions.

10. All the above Departments will hold periodic meetings to ensure that all the directions of this Court issued earlier and today are strictly complied with. A set of complete set up the videographs of the social audit hereafter to be conducted be shared with the learned AC who can then make appropriate submissions on the next date.

11. Copy of this Order be sent to the Special Secretary, Food Supplies and Consumer Welfare Department, Additional Secretary, WCD Department and the Joint Secretary, PR & DW Department, Odisha forthwith for compliance.

12. List this matter on 2nd March, 2023 at 2.00 p.m.



(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

MRS/Laxmikant