

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.6109 of 2018

*Chittaranjan Mohanty* ..... *Petitioner*  
*Petitioner in person*  
-versus-  
*State of Odisha and Others* ..... *Opp. Parties*  
Mr. L. Samantaray, AGA

**CORAM:**  
**THE CHIEF JUSTICE**  
**JUSTICE R.K.PATTANAİK**

**ORDER**  
**21.05.2022**

**Order No.**

41. 1. This PIL by a practising lawyer was filed expressing concern over the unfilled sanction post of doctors in the public health system in Odisha for long number of years. It raised a number of other issues including lack of equipments, drugs, drinking water, cleanliness sanitation facilities in the government run hospitals and the health facilities and the diversion of persons coming to the public health service to private clinics.
2. A detailed order was passed on 9<sup>th</sup> August, 2021 calling for a detailed affidavit of the Additional Chief Secretary to the Govt. Department of Health and Family Welfare regarding the exact of number of vacancies in each of the posts in the Orissa Medical Health Service (OMHS) and the Orissa Medical Education Services (OMES) cadres and what time-bound steps were proposed to be taken for filling up those vacancies.
3. On 17<sup>th</sup> November, 2021, the following order was passed.
- “1. One of the serious issues flagged by Mr. Chittaranjan Mohanty, who appears in person, is that the Doctors attached to Government Health Facilities, viz., the District Health Centers (DHCs),

the Community Health Centers (CHCs) and the Primary Health Centers (PHCs) are also carrying on private practice without attending to their duties at the Government Health Facilities. This has come about because of the State Government by an order dated 1<sup>st</sup> November 2003 permitting Government Doctors to carry on private practice after conclusion of their official duties. According to him, this has had a detrimental effect on the quality of health care throughout Odisha.

2. The second issue highlighted by him is that in the recent affidavit of the Opposite Parties granular data regarding the sanctioned and working strength of Government Doctors district wise and specialty-wise is not indicated.

3. As regard the first prayer, the Court considers it appropriate to issue the following directions in order to get a realistic picture on the ground: (i) The Secretary of every District Legal Services Authority (DLSA) will forthwith constitute a four-member team, which will include two lawyers of the panel of DLSA – one of whom preferably should be a woman lawyer - and two para legal volunteers (PLVs), who will undertake a visit in the next week to one DHH, one CHC and two PHCs in the district at different hours unannounced and record: (a) whether all the medical staff including Doctors, Nurses, Ward Staff, who are assigned to that facility are in fact in position and in attendance? (b) The condition of the concerned facility in terms of cleanliness, sanitation, toilet facilities, power and infrastructure; (c) adequacy of stocks of drugs, medicines, equipments; availability of ambulance; (d) accessibility (i.e. connectivity by road, availability of public transport to reach the facility) (e) Ability to deal with emergencies and in that context availability of telephone/internet connectivity (f) any other matter of relevance and significance for general availability of quality healthcare.

4. The general condition of each of such DHH, CHC and PHC will be depicted by the team in their

report supported by photographs and video clippings taken on a mobile phone. This will be done over a period of a week at different times, unannounced.

5. The district administration and police will extend their full cooperation to the team to carry out their task without hindrance. The Secretary DLSA will co-ordinate with the authorities for this purpose.

6. Each of the teams will submit their reports along with video clippings and photographs addressing each of the issues highlighted in para 3 of this order in a pen-drive to the concerned Secretary DLSA on or before 5 pm on 30th November, 2021. The said reports will then be transmitted by each Secretary, DLSA in a sealed cover to this Court by Special Messenger so as to reach this Court positively on or before 5 pm on 3rd December, 2021.

7. The Secretary, DLSA will reimburse the members of each team for expenses incurred towards transport, secretarial and incidental activity on actual basis. Each of the team members will be paid an honorarium of Rs.1,000/- (Rupees one thousand) for undertaking this exercise. The funds shall be disbursed from the contingency fund available with the District Judge concerned.

8. As regard the second issue, Mr. Samantaray, learned AGA is directed to file an additional affidavit before the next date giving the information as sought for.

9. List on 15th December, 2021 along with W.P.(C) No.16602 of 2016.

10. Copy of this order be transmitted today itself by e-mail by the Registrar General of this Court to all the Secretaries of the DLSAs for immediate compliance.”

4. Pursuant thereto reports were submitted by the DLSA teams along with video clips to this Court which was taken note of by the Court in its order dated 15<sup>th</sup> December, 2021. Although, copies of

the said reports and video clips taken were asked to be provided to the counsel for the State by the above order, somehow that direction was not complied with. A further direction has to be issued in that regard on 9<sup>th</sup> February, 2022. Today, Mr. Samantaray, learned Additional Government Advocate (AGA) acknowledges that on the very next day i.e. 10<sup>th</sup> February, 2022, he received copies of the reports and the video clips.

5. The task of analyzing the reports received from each of the thirty DLSAs containing various types of information took some time and with the help of the Research Assistants attached to the Judges of this Court a detailed summary running to 128 pages has been prepared. Copies thereof have been provided to Mr. Samantaray as well as the Petitioner who appears in person.

6. The reports submitted are as a result of the surprise visits undertaken in the 3<sup>rd</sup> week of November, 2021 by the DLSA teams to the public health facilities in each district i.e. the District Headquarters Hospital (DHH), the one Community Health Centre (CHCs) and two Primary Health Centers (PHCs). With respect to each of the above facilities the teams have submitted information on:

(a) whether all the medical staff including Doctors, Nurses, Ward Staff, who are assigned to that facility are in fact in position and in attendance?

(b) The condition of the concerned facility in terms of cleanliness, sanitation, toilet facilities, power and infrastructure;

(c) adequacy of stocks of drugs, medicines, equipments; availability of ambulance;

(d) accessibility (i.e. connectivity by road, availability of public transport to reach the facility);

(e) Ability to deal with emergencies and in that context availability of telephone/internet connectivity; and

(f) any other matter of relevance and significance for general availability of quality healthcare.

7. Mr. Samantaray learned AGA states that due to some communication gap he could not pass on the reports and video clips to the Health and Family Welfare Department till recently and, therefore, needs some more time to respond to the reports district-wise.

8. Nearly six months have been elapsed since the visits were undertaken by the teams of the DLSAs. The Court finds from the reports submitted by them that in many of the districts urgent corrective action requires to be taken. In many DHHs, CHCs and PHCs not all the doctors shown on the rolls of the facility were present; in many no nurses were found and staff were absent. Lack of cleanliness is a major issue as are lack of functional, clean toilets. Even the availability of clean drinking water is a big problem. In many places the registers for stocks of drugs were either not available or not properly maintained. It is a matter of concern that, in many of the DHHs, CHCs and PHCs ambulances were not available. This Court has only highlighted a few of the major issues thrown up by the reports as they are too basic for any health facility at any level, i.e. DHHs, CHCs and PHCs, to offer the minimum quality of medical care to persons who otherwise cannot afford treatment at private health care facilities. And yet, some of the reports point to instances where patients are being compelled to get their diagnostic tests including MRIs and CT scans done from a private facility at their

own cost. The above aspects are highlighted since they require immediate attention and corrective action by the State Government.

9. Keeping in view the overall situation that has emerged from the reports submitted, the Court directs as under:

(i) The Health & Family Welfare Department, Government of Odisha will immediately, and not later than one week from today, issue notices to the persons in charge of the concerned health facility i.e. DHH, CHC, PHCs, in respect of the functioning of which the reports submitted by the DLSAs have pointed out various shortcomings, asking for a detailed explanation. The precise shortcoming can be mentioned along with the date and time of the visit of the DLSA team, as is mentioned in the reports.

(ii) The replies to the notices must be received not later than ten days thereafter and wherever possible with the confirmation of the corrective action taken. If the reply is not satisfactory, further action as considered appropriate and in accordance with law will be taken by the HFW Department.

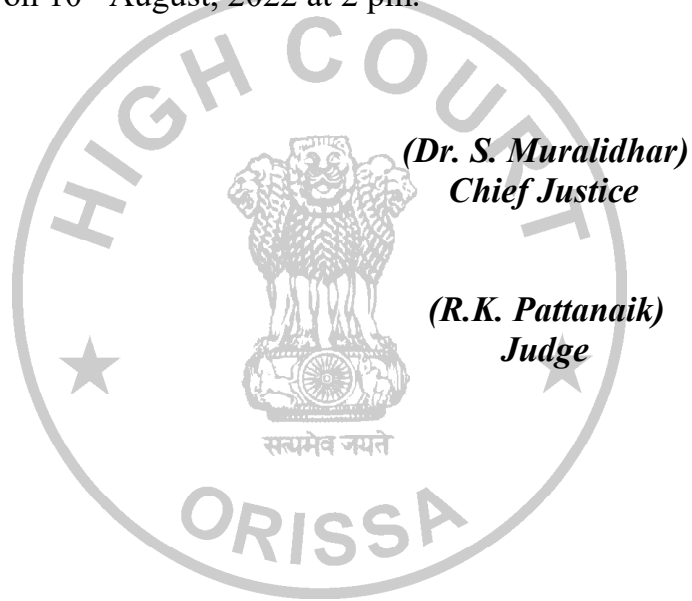
(iii) If the corrective action has not already been taken, then the HFW Department will fix a time limit, not later than 15<sup>th</sup> July 2022 for completion of all the tasks involved in removing the short-coming pointed out.

(iv) The State Government will organize crack teams to undertake surprise visits between 16<sup>th</sup> and 25<sup>th</sup> July, 2022 to each of the facilities, and also to the other facilities (viz., CHCs and PHCs that may not have been covered by the

teams of the DLSAs), in each of the districts to ensure that the corrective action has, in fact, been carried out taken.

(v) The State Government will thereafter file a reply in this Court, not later than 1<sup>st</sup> August, 2022 addressing each of the shortcoming district wise and facility-wise in a tabulated form, in the same manner as found in the detailed 128-page summary of the reports, handed over to Mr. Samantaray today.

10. List on 10<sup>th</sup> August, 2022 at 2 pm.



*K.C. Bisoi*