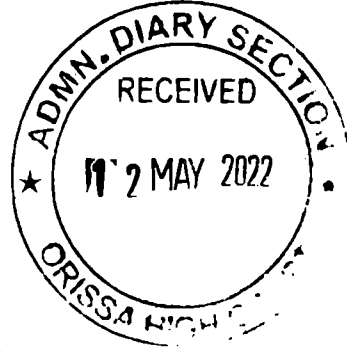
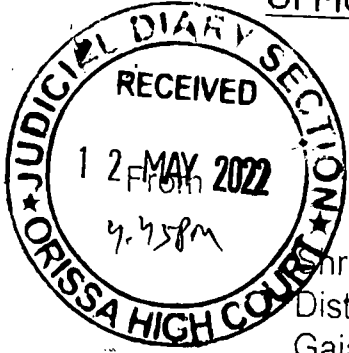


OFFICE OF THE DISTRICT & SESSIONS JUDGE,
GAJAPATI, PARALAKHEMUNDI.

L. No. 1236 //Dtd. 11th May, 2022



Shri Satyapira Mishra, O.S.J.S.,
District & Sessions Judge,
Gajapati, Paralakhemundi.

To

The Registrar General,
High Court of Orissa,
Cuttack.

Sub Submission of the compliance reports to the order in the
Judgement of the Hon'ble Court in W.P.(C)
No.31622/2021 & W.P.(C) No.32580/2021.

Ref: Hon'ble Courts L.No.10558 (17) dtd.14.09.2021.

Sir,

With reference to the letter and on the subject cited
above, I am forward herewith the compliance report to the directions
and guidelines issued in the Judgements of the Hon'ble Court in
W.P.(C) No.31622/2021 & W.P.(C) No.32580/2021, submitted by the
Addl. District & Sessions Judge, Paralakhemundi vide his office
L.Nos.1236 dtd 02.05.2022.

This is for favour of kind information of the Hon'ble Court.

Yours faithfully,

Encl: As above- 08 Sheets.

District & Sessions Judge,
Gajapati, Paralakhemundi.

Judl
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12/5/22
Reg. (J)
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12/5/2022

Suptd, Wait Br-
for
12/5/2022
Reg(S)

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13.5.22

wpc-32580/2021
DB-122

OFFICE OF THE ADDL. DISTRICT AND SESSIONS JUDGE.
PARALAKHEMUNDI, DIST: GAJAPATI.

Letter No. 1236 / Dated 02nd May, 2022

From,

Shri Hemanta Kumar Sethi, O.S.J.S.
Addl. District & Sessions Judge,
Paralakhemundi.

To,

The Registrar General,
Hon'ble High Court of Orissa,
Cuttack,
(Through the District Judge, Gajapati, Paralakhemundi)

Sub:-

Compliance to the order in the judgment of the
Hon'ble Court in W.P.(C) No. 31622/2021 .

Ref:-

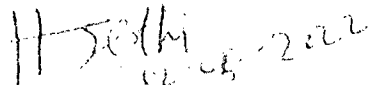
Memo No.955 (13) Dtd. 10.02.2022 of the
District Office, Paralakhemundi.

Sir,

In pursuance of the Hon'ble Court's direction and guidelines issued in the judgments dtd.31.01.2022 passed in W.P.(C) No.31622/2021 and W.P.(C) No. 32580 of 2021, I am to submit that during the fortnightly period under report i.e. from 16.04.2022 to 30.04.2022, one pending application filed for the release of the seized vehicle bearing No. AP-31-TQ-0850 in M.C. No. 18 of 2022 is dealt with and orders allowing release of the seized vehicle in favour of the Petitioner has been made with conditions on 30.04.2022. The Petitioner is yet to take release of the seized vehicle on fulfilling the terms and conditions as set out in the order. Copy of the order is submitted as desired.

This is for favour of kind information of the Hon'ble Court.

Yours faithfully,


Addl. Dist. & Sessions Judge,
Paralakhemundi

IN THE COURT OF THE ADDL. SESSIONS JUDGE-CUM-SPECIAL
JUDGE, PARLAKHEMUNDI.

Present: Shri Hemanta Kumar Sethi, O.S.J.S
Addl. Sessions Judge-cum-
Special Judge, Parlakhemundi,

Criminal Misc. Case No. 18 of 2022
(Arising out of petition filed U/s 451 Cr.P.C. in connection with G.R. 37 of 2021,
corresponding to Adava P.S. Case No. 22 Dtd. 30.01.2021 U/s 20(b)(i)(C)/25/29 of
N.D.P.S. Act pending before this Court)

Smt. Kota Rajeswari, aged about 51 years
W/O- Sri S. Tirupati Rao,
Vill- Kumbhar Street, Gunupur,
P.O./P.S. - Gunupur,
Dist - Rayagada Petitioner

Versus

State

....Opp. Party

Counsel for the Parties:

For the Petitioner : Sri Phonibhusan Patnaik &
Associates, Advocate, Gunupur.

For the State : Sri V.S.N. Raju,
Special P.P., Paralakhemundi.

Date of Hearing : 27.04.2022

Date of Order : 30.04.2022

ORDER

This is an application filed u/s 451 Cr.P.C. by the Third Party Petitioner namely Smt. Kota Rajeswari who claims herself as the rightful owner of the seized Mahindra Bolero Pickup bearing Registration No. AP-31-TQ-0850, for release of the seized vehicle in her favour.

2. It is contented that by the Third Party Petitioner that the Mahindra make Bolero Pickup van bearing Registration No. AP-31-TQ-0850,



originally belongs to Mahindra Kumar Choudhury, of Ramchandra Nagar, Visakhapatnam of Andhra Pradesh who had purchased it with finance provided by Mahendra and Mahendra Finance Company. The vehicle was hypothecated to the bank. Due to loss in business and COVID-19 pandemic situation, the original owner sold the vehicle to her on consideration of Rs 7,00,000/- (Rupees Seven Lakhs) under the sale agreement executed on 19.02.2019. As per the agreement, out of the consideration amount, a sum of Rs. 3,83,000/- (Rupees Three Lakhs Eighty Three Thousands) would be paid to the vendor and the balance amount of Rs 3,17,100/- (Rupees Three Lakhs Seventeen Thousands One Hundred) to the above Finance Company towards 21 installments of the loan amount. Accordingly, she (Petitioner) paid Rs. 3,83,000/- (Rupees Three Lakhs Eighty Three Thousands) in cash to the original vendor Mahindra Kumar Choudhury who after receipt of the money, gave physical possession of the vehicle with all its document to her. She also paid Rs. 2,71,800/- (Rupees Two Laks Seventy One Thousands Eight Hundred) out of Rs 3,17,100/- (Rupees Three Lakhs Seventeen Thousands One Hundred) to the Finance Company towards 18th months instalments. Thus, only three instalments were left to be paid to the Finance Company, but in the mean time, the Adava Police seized the said vehicle from the possession of the driver of the vehicle on 31.01.2021 in connection with the present case and since then, the vehicle has been lying for about one year in the premises of the Adava P.S. being expose to Sun and the rain. It is stated that if the vehicle is kept in the condition it is lying, its parts would get damaged and the vehicle would become unusable in future. On the basis of the guidelines and the directions of the Hon'ble High Court of Orissa in W.P. (C) No. 31622 of 2021 between Ashis Ranjan Mohanty (Adv.) versus State of Odisha and others, the Petitioner for release of the vehicle in her favour is filed. It is further stated that non release of the vehicle, would cause huge financial loss to the Petitioner which cannot be compensated by any means. With these contentions, release of the seized vehicle, in her favour is prayed by the Petitioner. The petition is supported by an affidavit

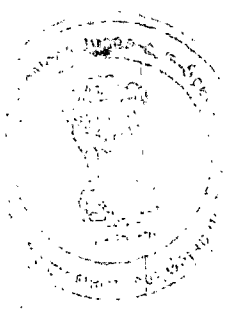
sworn by the petitioner along with the petition, the sale agreement executed by the original owner and the petitioner on 19.02.2019 is filed.

3. The Ld. Special P.P. has filed his objection to the petition of the petitioner for release of the vehicle. The objection raised by him is with regard to the competency of this Court to entertain the prayer for release of the vehicle. It is contented by him that as per the ratio of two recent decision of the Hon'ble High Court of Orissa in W.P. (C) No. 31622 of 2021 between Ashis Ranjan Mohanty (Adv.) versus State of Odisha and others and W.P.(C) No. 32580 of 2021 between State of Odisha versus Registrar General, Orissa High Court, Cuttack and also the judgment dtd. 28.10.2019, of the Kerala High Court, only the designated Magistrate as envisaged in Sec. 52-A of the N.D.P.S. Act is alone competent to deal with and dispose of the present application. According to him, this Court lacks jurisdiction to entertain the petition for release of the seized vehicle in question.

4. The Ld. Defence Counsel for the petitioner and the Ld. Special P.P. are heard.

5. During hearing, on behalf of the petitioner, two affidavits i.e. one sworn by the petitioner and the other sworn by the registered owner of the vehicle namely Mahindra Kumar Choudhury, are filed.

6. It would appear from the materials on record that on 30.01.2021, Adava Police seized Mahindra make Bolero Pickup van bearing Registration No. AP-31-TQ-0850 in connection with for offences U/ss. 20(b)(ii)(C)/25/29 of the N.D.P.S. Act for illegal transportation of commercial quantity of contraband Ganja in the seized vehicle also. The Case Diary would reflect that the deponent of the above affidavit namely Mahindra Kumar Choudhury is the registered owner of the seized vehicle. The insurance certificate issued in respect of the seized vehicle bearing Registration No. AP-31-TQ-0850 for the period from 26.09.2020 to 25.09.2021 by IFFCO-TOKIO General Insurance Company would also





show that Mahindra Kumar Choudhury is the policy holder. The case diary as well as the affidavits filed would show that the registered owner of the vehicle namely Mahindra Kumar Choudhury purchased the seized vehicle with the loan provided by the Mahendra and Mahendra Finance Company to which the vehicle is hypothecated and the said purchaser could not pay the monthly installment of the loan to the Finance Company and he sold the vehicle to one Smt. Kota Rajeswari, the mother of the accused S. Durga Prasad. The petitioner who is Smt. Kota Rajeswari by name has filed an affidavit stating that her name has been wrongly recorded as S. Rajeswari instead of K. Rajeswari. It is stated by her name to which is K. Rajeswari is reflected in the Aadhar Card, Voter-ID card and Educational certificates. The Ld. Special P.P. does not dispute the fact that the present petitioner is the person who has purchased the seized vehicle from the registered owner. The sale-agreement filed by the petitioner would show that the Petitioner would show that the Petitioner had purchased the seized vehicle from the registered owner. So Prima-Facie, the Petitioner is the legally entitled to get the possession of the seized vehicle is not otherwise disentitled.

7. The only objection of the Ld. Special P.P. is that this Court has no power to release the vehicle which according to him is to be exercised by the Designated Magistrate. In support of the submission he relies of the provision in sec 52-A of the N.D.P.S. Act and two recent Judgments of the Hon'ble Orissa High Court in the case of Ashis Ranjan Mohanty (Adv.) and Registrar General, Orissa High Court, Cuttack (supra).

8. Sec. 52-A of the NDPS Act deals with the procedure to be followed by such Officer in such manner and in respect of such items in respect narcotic drugs, psychotropic substances, controlled substances or conveyances as may be specified by the Central Government by the virtue of Notification in the Official Gazette for disposal of such items of seized properties. For the purpose of disposal, such Officer shall prepare an inventory of such items and make an application to the Magistrate for

certifying the correctness of the inventory so prepared or for taking photographs or allowing drawl of representatives samples. The Magistrate shall when such application is made, shall allow such application; Sec. 52-A of the NDPS Act does not authorize the Magistrate to order disposal of all properties seized under the NDPS Act. The judgments cited above by the Learned Special P.P. do not support the contention of the Learned Special P.P. that the Special Judge when dealing with the case under NDPS Act lack jurisdiction to deal with the seized property during the pendency of the trial or at the conclusion of trial.

9. This court now in the seisin of the case, seizure has been made in this case. Application is made before this court U/s. 451 Cr.P.C. for release of the vehicle seized in connection with the offence which is under trial now. Sec. 451 Cr.P.C. clearly authorizes the criminal court holding inquiry or trial to make order as is thinks fit for proper custody of such property pending conclusion of inquiry or trial. So, this court is competent to deal with the petition filed for the release of the vehicle U/s. 451 Cr.P.C.

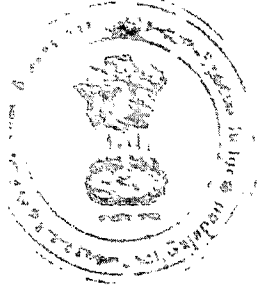
10. It would be evident from the materials on record that since 30.01.2021 the seized vehicle bearing Regd. No. AP-31-TQ-0850 is being kept at Adava P.S. The contention of the Petitioner is that the vehicle is lying exposed to sun and rain with premises of Adava P.S. is not refuted by the Learned Special P.P. It is, but natural when a vehicle is kept unused for a long time under the open sky being exposed to vicissitudes of weather would get naturally damaged. As regards disposal of the vehicle, it would be relevant to refer the observation of the Hon'ble Supreme Court in **Sundarbhai Ambala Desai vs. State of Gujarat** reported (2003) 24 ocr (sc)-444 which judgment has also been referred to in **Ashis Ranjan Mohanty** case (supra). It is observed that whatever be the situation, it is of no use to keep the such seized vehicle at the P.S. for a long period. Already, the prima-facie entitlement of the Petitioner to get the vehicle has been found out. In **Ashis Ranjan Mohanty** case, the Hon'ble High Court at



paragraph-15(ii) has observed that the concern court shall pass an order for the custody of the property in terms of the directions of the Supreme Court in the judgment which includes judgment of Sundarbhai Ambala Desai case. It is also observed by the Hon'ble High Court at paragraph- (iv) of para-16 that the general norm is that the court should invariably pass order for return of the vehicles and if in a rare instance such request is refused, then the reasons thereof to be recorded in writing. The Petitioner being found entitled to interim possession and the vehicle having been lying exposed to sun and rain at the Adava P.S. premises, the prayer for release of the vehicle is allowed on the following conditions.

11. In view of the guidelines specified by the Hon'ble Court in the Judgment dtd. 31.01.2022 passed in W.P.(C) No. 31622 of 2021 and SOP issued by the Hon'ble High Court relating to disposal of the seized properties, I am inclined to release the Mahindra Bolero Pickup bearing Registration No. Ap-31-TQ-0850 in favour of the Petitioner on production of an indemnity bond of Rs. 2,00,000/- (Rupees Two Lakhs) and cash security of Rs 50,000/- (Rupees Fifty Thousands) alongwith one solvent surety bond in sum of Rs. 2,00,000 - (Rupees Two Lakhs), with further following conditions:

- (i) That, the Petitioner shall not transfer or otherwise dispose of the seized vehicle to anyone else and shall not make any change in its body, colour, chassis number and engine number during pendency of G.R. 37 2021 and she shall keep the same in good running condition at all time;
- (ii) That, the Petitioner shall furnish the undertaking that no damage shall be caused or no part of the vehicle shall be substituted without leave of the court and he shall keep the vehicle insured at all times and produce the same before this Court as and when so required;
- (iii) That, the vehicle shall not be used for commission of any offence;
- (iv) That, the Petitioner shall furnish digital photographs with a hash tag with date and time stamp with the hash value and video clip of maximum of one



minute duration of the vehicle taken from all angles being preserved in a Pendrive kept in secure cover and images should be in JPG/JPEG/PNG format and the video should be of MP4/MOV/AVI format. The photograph and the video shall be taken under the supervision of Sessions Clerk of the Court to whom the duty is delegated to monitor taking of digital photographs and recording of videos.

(v) That, the Petitioner shall obtain and shall submit with the valuation report prepared by the approved valuer of the vehicle.

Y
Addl. Sessions Judge-cum-
Special Judge, Parlakhemundi.

This order is typed to my dictation, corrected by me and pronounced in the open court today with my signature & seal of the Court. on this the 30th day of April, 2022.

Y
Addl. Sessions Judge-cum-
Special Judge, Parlakhemundi.

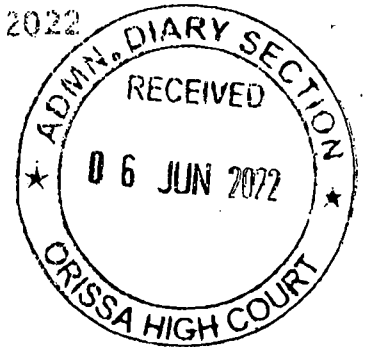
True Copy

H Sethi
02-05-2022
Addl. Dist. & Sessions Judge
Parlakhemundi/Gawdan.

11

OFFICE OF THE DISTRICT & SESSIONS JUDGE,
GAJAPATI, PARALAKHEMUNDI

L No. 1572 /Dtd 04th June, 2022



From

The District & Sessions Judge
Gajapati, Paralakhemundi

To

The Registrar General,
High Court of Orissa
Cuttack

Sub

Submission of the compliance reports to the order in the
Judgement of the Hon'ble Court in W.P.(C)
No 31622/2021 & W.P.(C) No.32580/2021

Ref:

Hon'ble Courts L No 10558 (17) dtd. 14.09.2021

Sir,

With reference to the letter and on the subject cited
above, I am forward herewith the compliance report to the directions
and guidelines issued in the Judgements of the Hon'ble Court in
W.P.(C) No 31622/2021 & W.P.(C) No 32580/2021, submitted by the
Addl. District & Sessions Judge, Paralakhemundi vide his office
L Nos.1572 dtd 02.05.2022.

This is for favour of kind information of the Hon'ble Court

Yours faithfully

Encl: As above- 01 Sheet(s)

District & Sessions Judge, /c
Gajapati Paralakhemundi

1099/
06.6.22

Reg (Implications)

73
6/6/2022

D.R. C. (J)

07-06-2022

Supdts, Writ DB-II & III
Tag on the case record
and place it for
perusal of Hon'ble
court.

07-06-22
DR(J)

5775
10.6.22

wpc-32580/2021

DB-122

OFFICE OF THE ADDL. DISTRICT AND SESSIONS JUDGE,
PARALAKHEMUNDI DIST. GAJAPATI

Letter No. 100/2022 Dated 10.06.2022 June, 2022

From,

Shri Hemanta Kumar Sethi, O.S.J.S.,
Addl. District & Sessions Judge,
Paralakhemundi

To,

The Registrar General,
Hon'ble High Court of Orissa,
Cuttack.
(Through the District Judge, Gajapati, Paralakhemundi)

Sub-

Compliance to the order in the judgment of the
Hon'ble Court in W.P.(C) Nos. 31622/2021 and
32580 of 2021

Ref.-

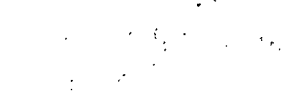
Memo No 955 (13) Dtd. 10.02.2022 of the District
Office, Paralakhemundi.

Sir,

As desired by the Hon'ble High Court in judgment,
dtd.31.01.2022 passed in W.P.(C) No.31622/2021 and W.P.(C) No
32580 of 2021, I am to furnish the report for the fortnight commencing
from 16.05.2022 to 31.05.2022 and to report that during the period, no
application was filed with prayer for release of the seized vehicle. The
occasion also did not arise to hear any such pending application as no
such application for release of the seized vehicle remained pending for
being dealt with during the fortnight.

I request, that this may kindly be placed before the
Hon'ble Court for perusal.

Yours faithfully,


Addl. Dist. & Sessions Judge
Paralakhemundi

12



OFFICE OF THE DISTRICT & SESSIONS JUDGE
GAJAPATI, PARALAKHEMUNDI

L. No. //Dtc. 23rd June 2022



Shri Sayajira Mishra, O S J S,
District & Sessions Judge
Gajapati, Paralakhemundi

To

The Registrar General,
High Court of Orissa
Cuttack.

Suo

Submission of the compliance reports to the order in the
Judgement of the Hon'ble Court in W.P.(C)
No.31622/2021 & W.P.(C) No 32580/2021

Ref.

Hon'ble Courts L No. 10553 (17) dt 14.09.2021

S-

With reference to the letter and on the subject cited
above, am forward herewith the compliance report in the direction
and guidelines issued in the Judgements of the Hon'ble Court in
W.P. C No 31622/2021 & W.P.(C) No 32580/2021 submitted by the
Addl. District & Sessions Judge, Paralakhemundi vide his office
No 1497 dt 13.06.2022

This is for favour of kind information of the Hon'ble Court.

Yours faithfully

(Signature)
District & Sessions Judge
Gajapati, Paralakhemundi

216. A. Above- CI Sheet

Insp.)

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(Signature)
27/6

DB-122

wpc-32580/21

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13



OFFICE OF THE DISTRICT & SESSIONS JUDGE,
GAJAPATI, PARALAKHEMUNDI.

L. No. 5235 //Dtd. 8th July, 2022



Shri Satyapira Mishra, O.S.J.S.,
District & Sessions Judge,
Gajapati, Paralakhemundi.

To

The Registrar General,
High Court of Orissa,
Cuttack.

Sub

Submission of the compliance reports to the order in the
Judgement of the Hon'ble Court in W.P.(C)
No.31622/2021 & W.P.(C) No.32580/2021.

Ref:

Hon'ble Courts L.No.10558 (17) dtd.14.09.2021.

Sir,

With reference to the letter and on the subject cited
above, I am to forward herewith the compliance report to the
directions and guidelines issued in the Judgements of the Hon'ble
Court in W.P.(C) No.31622/2021 & W.P.(C) No.32580/2021,
submitted by the Addl. District & Sessions Judge, Paralakhemundi
vide his office L.No.1925 dtd.04.07.2022.

This is for favour of kind information of the Hon'ble Court.

Yours faithfully,

[Signature]
District & Sessions Judge,
Gajapati, Paralakhemundi.

Encl: As above- 01 Sheet.

Reg. (Encl.)
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11/07/2022

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D. S. (Encl.)
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Tag in the call record
for and consideration
and reference of Hon'ble
court.
[Signature]
12.07.22
DR(J)

wpc-32580/2021

OFFICE OF THE ADDL. DISTRICT AND SESSIONS JUDGE
PARALAKHEMUNDI DIST. GAJAPATI

Letter No. 1925 Dated 06th July, 2022

From.

Shri Hemanta Kumar Sethi, O.S.J.S.
Addl. District & Sessions Judge.
Paralakhemundi

To.

The Registrar General,
Hon'ble High Court of Orissa,
Cuttack.
(Through the District Judge, Gajapati, Paralakhemundi)

Sub:-

Compliance to the order in the judgment of the
Hon'ble Court in W.P.(C) Nos. 31622/2021 and
32580 of 2021

Ref:-

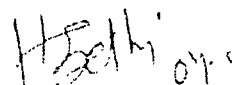
Memo No.955 (13) Dtd. 10.02.2022 of the District
Office, Paralakhemundi.

Sir.

As desired by the Hon'ble High Court in judgments
dtd.31.01.2022 passed in W.P.(C) No.31622/2021 and W.P.(C) No.
32580 of 2021, I am to furnish the report for the fortnight commencing
from 16.06.2022 to 30.06.2022 and to report that during the period, no
application was filed with prayer for release of the seized vehicle. The
occasion also did not arise to hear any such pending application as no
such application for release of the seized vehicle remained pending for
being dealt with during the fortnight.

I request, that this may kindly be placed before the
Hon'ble Court for perusal.

Yours faithfully,

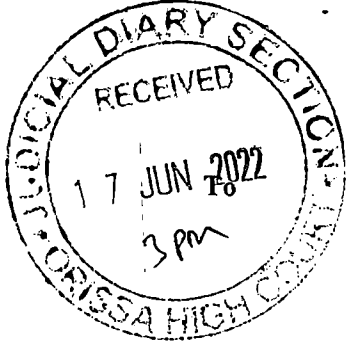

Addl. Dist. & Sessions Judge.
Paralakhemundi

14
Through e-mail
ra.od-hc@gov.in

OFFICE OF THE DISTRICT & SESSIONS JUDGE, GANJAM, BERHAMPUR

L.No. 5794 dtd. 4/6/22

From



Sri Ananda Chandra Behera, O.S.J.S.
District Judge, Ganjam,
Berhampur

The Registrar (Administration),
High Court of Orissa
CUTTACK

Sub:- Submission of Monthly Statement regarding Number of applications disposed of U/s 52 A of NDPS Act as per the guidelines issued in WP(C) No. 32580 of 2021 of the Hon'ble Court (State of Odisha Vs. Registrar, General, High Court of Orissa)

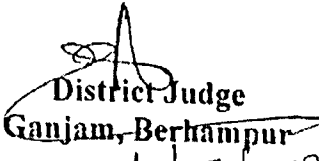
Ref: Hon'ble Court's L.No. 9573(30) dtd. 05.03.2022.

Madam,

With reference to the letter and subject cited above, I am to inform that 36 Number of Applications U/s 52 A of NDPS Act have been disposed of in different Courts of Ganjam Judgeship during the month of May 2022.


I therefore request that the matter may kindly be placed before the Hon'ble Courts for favour of kind perusal.

Yours faithfully,


District Judge
Ganjam, Berhampur
04/06/2022

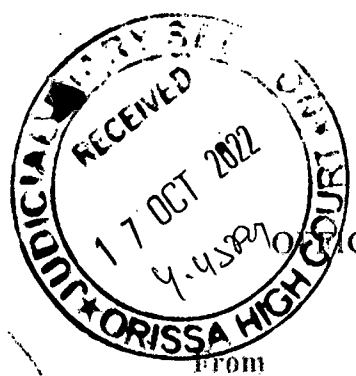
Judge
11373
17/6/22

Supdt, Work DB-III
Tag in the file to
be placed before
Hon'ble court


10.06.22
DR (J)

15

Through e-mail
ra.od-hc@gov.in

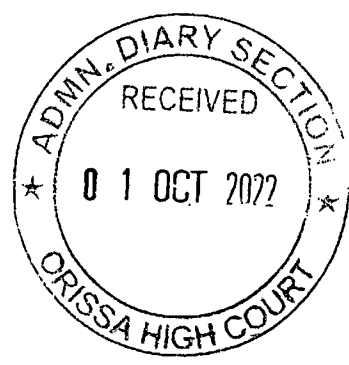


OFFICE OF THE DISTRICT JUDGE, GANJAM, BERHAMPUR

L. No. 11596 / dtd. 30/9/22

From

Sri Ananda Chandra Behera, O.S.J.S.
District Judge, Ganjam,
Berhampur.



To

The Registrar General,
High Court of Orissa,
CUTTACK.

Sub: Submission of Monthly Statement regarding Number of applications disposed of U/s 52(A) of NDPS Act as per the guidelines issued in WP(C) No 32580 of 2021 of the Hon'ble Court (State of Odisha Vs. Registrar, General, High Court of Orissa).

Ref: Hon'ble Court's L.No 9573(30) dtd: 05.03.2022.

Sir,

With reference to the letter and subject cited above, I am to inform that 190 Nos. of Applications U/s 52(A) of NDPS Act have been disposed of in different Courts of Ganjam Judgeship during the month of September 2022.

I therefore request that the matter may kindly be placed before the Hon'ble Courts for favour of kind perusal.

Yours faithfully

[Signature]
District Judge,
Ganjam, Berhampur.
30/09/22

Supdt, Writ DB-III

[Signature]
10-10-22
DRC(J)

Jwell,
14968
01/10/22

Reg. (2nd P)
[Signature]
09/10/22

DRC (J)
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