

In the High Court of Orissa
ORDER SHEETQAND. 5935/2023
QAND. 5936/2023
QAND. 5937/2023



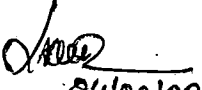

BLAPL/W.P. (CWA) No. 2191/2023 of 20 23 .

STATE OF ODISHA & Ans . Petitioners .

Versus

SUDHIR RANJAN PATEL

Opposite-Party

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
 FC129099 SCANNED			<p>PRESENTED ON 29/08/2023 Register and Put up for Orders</p> <p> Registrar (Judicial)</p> <p>FOR S.R</p> <p> 04/09/23</p> <p> Bikram Sethy Assistant Registrar (Judl.)</p>



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.A. No. 2191 of 2023

State of Odisha and another *Appellants*
Mr. K.C. Kar, Government Advocate
-versus-
Sudhir Ranjan Patel *Respondent*

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MISS JUSTICE SAVITRI RATHO

Order No. ORDER
01. 03.12.2024

01. This matter is taken up through Hybrid mode.

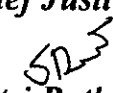
I.A. No.5935 of 2023

2. This application has been filed by the appellants for dispensing with filing of certified copy of the order dated 07.10.2021.
3. Mr. K.C. Kar, learned Government Advocate appearing on behalf of the appellants undertakes to file the certified copy of the impugned order within a week.
4. Considering the aforementioned submission, filing of the certified copy of the aforementioned order is dispensed with for the time being. Let the certified copy of the order be filed within one week as undertaken.
5. The application stands disposed of.

W.A. No.2191 of 2023

6. List this matter on 10.12.2024.

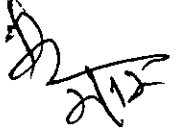


(Chakradhari Sharan Singh)
Chief Justice


(Savitri Ratho)
Judge

IN THE HIGH COURT OF ORISSA

Case No. WA 2191/2023

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
		<p>(i) D.A NO. 5935 of 2023 is at flag 'A' for dispense with for filing of certified copy.</p> <p>(ii) I.A NO. 5936 of 2023 is at flag 'B' for condonation of delay.</p> <p>for orders</p> <p>Along with wp(c) 31328/2021 (a disp. of case)</p> <p>AKASH Pradhan 04.09.2024 02.12.2024</p> <p>D.B</p> <p></p> <p><u>order NO - 1</u></p> <p>(i) certified copy of impugned order is filed.</p> <p>(ii) I.A NO. 5936 of 2023 is at flag 'B' for order <u>order</u> regarding condonation of delay.</p> <p>for orders</p> <p>Along with wp(c) 31328/2021 (a disp. of case)</p> <p>AKASH Pradhan 07.12.2024</p> <p>D.B</p> <p>Adj to dt <u>10.12.2024</u></p> <p></p>
01	03.12.2024	



ORISSA HIGH COURT
FILING ACKNOWLEDGEMENT SLIP

CNR	ODHC010690392023
Filing No	WA/0002191/2023
Date and Time	29/08/2023-15:06:30
Misc Case/IA	5935/2023,5936/2023,5937/2023
Petitioner Name	STATE OF ODISHA
Petitioner Advocate Name	MALAYA KETAN BALABANTARAY,A.G.A
Respondents Name	SUDHIR RANJAN PATEL
Respondents Advocate	
Amount	
Police Station	
FIR	-



Tuesday 29th of August 2023 03:52:59 PM

1. RFA/RSA/PAO/SAO/LPA/SPA/CRP/Review pet/0. Pet/EXFA/EXSA/SM/APPT.
P(c) WP (c)/WASCLP/Co. App/Co. Pet/Co. Case/Co. App/Bkg. P/Mat. A/Mat.
Ref/RP (FAMCT) Test Case / Intest Case / A. Ref/RCPA/LA/RCSA/RE
Rev/MAC/MAC APP/EL Pet/ELAPP/Arb. P/Arb. A/Arb. A/Insurance Ref/Cont.
Cas(c)/Coud. App (c) / MFA (name of the Act)/MSA/SP. JC (name of the Act) On
A/Cri. Rev/Ckl. M. C/BLAP/Cal. MAPPI/WP (or) CUSREF-STREV

Case Type W/A No 2191 12023 Date of Reg. 2
Mark

2. If 'State' is Party, Name of the Deptt. (Pet/Res) [Put Water Resource Dept]
Mark

If Public Undertakings (Specify name): (Pet/Res) [Put Mark]

3. (a) Number of Category under which the matter falls:

3 1

0 7

9 9

If Others, Specify the subject

(b) Which is applicable? [Put Mark]

(Single Bench/Div. Bench/Three Judge Bench/Five Judge Bench)

4. Article of the Constitution/Act (Central/State) [Put Mark]

An Appeal Read with Article 10

5. Section/Sub-Section Involved

6. Rules Involved

7. Whether any other matter is pending in this Court on the same point of law :
If so, give the number of matter :

8. Whether any other matter is pending against the impugned order/Judgement?
If so give the number of matter.

9. Whether the matter is covered by any judgement of the Supreme Court this
Court or any other High Court, If so give the details of the judgement

10. Point of law involved in the matter An Appeal challenging
the order passed by the Hon. Mr
Single Judge

Date 28.8.2023

M.K. Bhatnagar
Signature of the Advocate

High Court of Orissa Acknowledgement



CNR : ODHC010690392023
Efiling No : AOD20220001886C202300685
Filing No. : WA/2191/2023 Date of Filing : 29-08-2023
Petitioner : STATE OF ODISHA Time of Filing : 15:06:30
Petitioners : MALAYA KETAN Respondent : SUDHIR
Advocate BALABANTARAY,A.G.A RANJAN PATEL
Amount : 0.00



[Print](#)

STAMP REPORT

CASE NO.

WA-2191/23

LIMITATION

Date of Judgement Awards 07.10.2021
Date of Valid Presentation 29.08.2023
Total Period Occupied 691 day
Limitation 30 day
Certified Copy Period day
Delay in filing 661 day

1. In time Expired on 7.11.2021.
2. Period of delay 661 days, 30 for condonation of delay filed.
3. Court Fee Rs. 14/- paid.
4. Authentication fee due on the
(a) Copy of Trial Court Judgement
Rs..... Decree Rs.....
(b) Appellate Court Judgement Rs.....
Decree Rs.....
5. (a) Copy of Trial Court Judgement/Order
(b) Appellate Court/Revisional Order c. c. of impugned order not filed
Judgement 30 for dispensation with filed.
(c) Second Copy Petition filed.
(d) Receipt showing copy on A.G. X
(e) Vakalatnama properly stamped, executed and accepted appearance memo filed.
6. (a) Cause Title 30 order
(b) Provision of Law 30 order
7. Code 30 order
8. Single Judge/Division Bench Case 1B
9. Other Defects 7

STAMP REPORTER

Bikram Sethy
Assistant Registrar (Judl.)

IN THE HIGH COURT OF ORISSA, CUTTACK

W.A. No. 2191 of 2023
(Arising out of W.P. (C) No.31328 of 2021,
Disposed of on 07.10.2021) code-310799

State of Odisha & another Appellants

-Versus-

Sudhir Ranjan Patel Respondent

INDEX

<u>Sl. No.</u>	<u>Description of documents</u>	<u>Pages</u>
1.	Synopsis	A-B
2.	List of Date and events	C-D
3.	Writ Appeal	1 - 15
4.	<u>Annexure-1 Series</u> Xerox copy of the writ petition of W.P.(C) No.31328 of 2021 alongwith its annexures	16 - 50
5.	<u>Annexure-2</u> Downloaded copy of order passed On 07.10.2021 in W.P.(C) No.31328 of 2021	51-52
6.	<u>Annexure-3 series</u> Copies of the G. A. Deptt. Office Memorandum No. 3928/Gen., dated 18.02.1994, Office Memorandum No. 29699/Gen, dated 01.11.1997, Office Memorandum No. 9162/Gen, dated 29.04.2017 and Office Memorandum No. 15643/Gen, dated. 17.06.2021	53-62

Cuttack

Date: 29.8.2023

NALAYA KETAN BALASUBRAHMANYAM
Addl. Government Advocate

A

SYNOPSIS

The Respondent was appointed as Assistant Engineer in Water Resources Department, Govt. of Odisha on 09.04.1996 and subsequently the Respondent was promoted to different grade and finally upto the post of Executive Engineer (Civil) on 26.02.2014.

Vigilance Department have started a file for acquisition of disproportionate assets in Sambalpur Vigilance File No.24/2010 and again have lodged FIR and initiated one Sambalpur (Vigilance) P.S. Case No.88 during 2013 against the Respondent. Departmental Proceeding under Rule-15 was initiated against the Respondent under the reference of Vigilance Department. For the reason the promotion of the Respondent from Executive Engineer to the post of Superintending Engineer (Civil) was kept under sealed cover in the Departmental Promotion Committee Meeting held on 17.04.2018. Being aggrieved Respondent filed W.P.(C) No.31328 of 2021 to give promotion to the Respondent to the rank of Superintending Engineer from 30.04.2018 and to the post of Chief Engineer from 01.07.2020 the date of his immediate junior got such promotions with consequential service and financial benefits. The said

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writ petition was allowed by the impugned order No.1,
dt.07.10.2021 under Annexure-2. Hence, the present
writ appeal

CUTTACK.

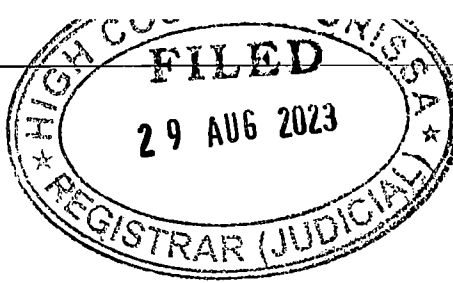
DATE: 28.08.2023.

(MALAYA BALABANTARAY)
ADDL. GOVT. ADVOCATE.

(Malaya Balabantaray)

ENROLMENT NO. *P-669/1994*

MOBILE NO.94370-23377



C

LIST OF DATES AND EVENTS

DATE		EVENTS
09.04.1996	:	Assistant Engineer in Water Resources Department, Govt. of Odisha
31.01.20214	:	Promoted to Assistant Executive Engineer (Civil).
24.02.2014	:	Promoted to the post of Deputy Executive Engineer (Civil).
26.02.2014	:	Promoted to the post of Executive Engineer(Civil)
29.05.2014	:	List of gradation list of Executive Engineer (Civil) was published
31.12.2014	:	While working as Asst. Engineer Sambalpur (V) P.S. Case No.88/2010corresponding CTR Case No.09 of 2015 charge sheet was submitted for possession of disproportionate assets
01.12.2016	:	Departmental proceeding was initiated under Rule-15 basing on Sambalpur Vigilance File No.24/2010 for possession of disproportionate assets

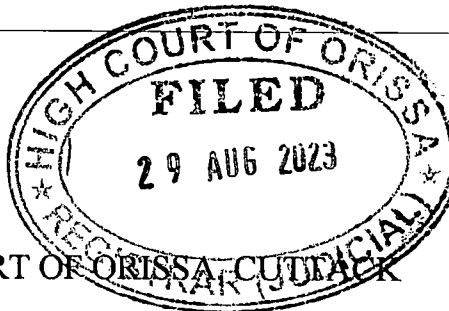
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17.04.2018	:	DPC meeting was held for promotion from the post of Executive Engineer to Superintending Engineer
24.02.2021	:	The matter was again referred for re-enquiry into the D.P. by the Enquiring Officer as advised by the W.R. Department vide letter No.190, dt.24.02.2021
01.10.2021	:	Respondent filed W.P.(C) No.31328 of 2021 against State not being considered for promotion to SE by the DPC Committee
07.10.2021	:	W.P. (C) No.31328 of 2021 was allowed by order dated 07.10.2021. Hence, the present writ appeal

CUTTACK.

DATE: 28.08.2023.

MALAYA KETAN BALABANTARAY.
ADDL. GOVT. ADVOCATE.
(Malaya Balabantaray)
ENROLMENT NO.
MOBILE NO.94370-23377



IN THE HIGH COURT OF ORISSA, CUTTACK

W.A. No. 2191 of 2023

(Arising out of W.P. (C) No.31328 of 2021,
Disposed of on 07.10.2021)

Code No.310799

In the matter of:

An appeal under Article-4 of the Orissa
High Court Rules, 1948 read with Clause-
10 of the Letter Patent of the Orissa High
Court;

And

In the matter of:

An appeal challenging the order dated
07.10.2021 passed by the Hon'ble Single
Judge of this Hon'ble Court in W.P.(C).
No.31328 of 2021;

And

In the matter of:

1. State of Odisha represented through its
Principal Secretary, Water Resources
Department, At- Rajiv Bhawan
Bhubaneswar, District-Khurda.
2. Special Secretary to Govt., General
Administration & Public Grievances
Department, Govt. of Odisha,

Presenta Karmar Karmar

Presented on 29/8/2023
fm
Registrar (Judicial)

Long
atm

MALAY KETAN BALABANTHAN
ENR NO - 0-669/1994
my ph. 94370 23325

LokSevaBhawan, Bhubaneswar, Distric-
Khurda.

(O.P. Nos.1 and 2 in the writ petition)

....Appellants

-Versus-

Sudhir Rajan Patel, aged about 61 years,
Son of Ramesh Chandra Patel, Subhashree
Bihar, Ainthapalli, Sambalpur working as
Executive Engineer, Executive Engineer
in Megalift Project, At- Post- District-
Jharsuguda.

(petitioner in the writ petition)

...Respondent

(The matter out of which this writ appeal
arises was before this Hon'ble Court in
W.P.(C) No.31328 of 2021 disposed of
on 07.10.2021)

To

The Hon'ble Chief Justice and His Lordships
companion justices of the Hon'ble High Court of
Orissa.

The humble memorandum of appeal of the
above named appellants;

MOST RESPECTFULLY SHEWETH:

1. That, the appellants challenge herewith the judgment and order dated 07.10.2021 passed in W.P.(C) No.31328 of 2021 by the Hon'ble Single

Prayanta Kumar Meher.

6/5/21

Judge by which the writ application was disposed of directing the appellants to give promotion to the Respondent to the rank of Superintending Engineer from 30.04.2018 and Chief Engineer from 01.07.2020 the date of his juniors and batch mates got such promotions.

2. That the present Appellants are the functionaries of the State of Odisha and the cause of action for filing of the present appeal also arises within the jurisdiction of this Hon'ble court.

3. That brief fact as advanced by the respondent as the petitioner in the writ petition are as follows:-

3.1. That the respondent has started his service on 9.4.1996 as an Asst. Engineer and promoted to the post of Asst. Executive Engineer on 31.01.2014, Deputy Executive Engineer on 24.02.2014 and Executive Engineer on 26.02.2014 under the State Government in the Water Resources Department. Accordingly in Govt. order No.13042 dtd.29.05.2014 the gradation list of the Executive Engineers of the Water Resources Department was published and the respondent was placed at Sl. No.91.

3.2 That while the respondent was continuing as an Asst. Engineer, Sambalpur Vigilance PS case No.88 of 2010 dtd.30.09.2010 corresponding to CTR Case No.9 of 2015 was instituted against the respondent on the

Prananta Kumar Meher.

16/12/20

allegation of disproportionate of assets, which is now pending in the Court of Special Judge Vigilance, Sambalpur.

3.3 That the next promotion of the Executive Engineer is to the rank of Superintending Engineer. The responding having been brought into the cadre of Executive Engineer is due for promotion to the post of Superintending Engineer (Civil). But the State Govt. in notification No.12175/WR dtd.30.04.2018 while promoting many Executive Engineer to the post of Superintending Engineer including his juniors, the respondent was ignored. On enquiry it has been ascertained by the respondent that because of pendency of the vigilance case he is debar of such promotions.

3.4. That basing on these allegations in the vigilance cases, the State Govt. has instituted a disciplinary proceeding against the respondent in the year 2016 with self same charges, which is still pending. The respondent has represented to the authority concern for consideration for his claim for promotion from the date his immediate juniors have got such promotion, but the State Govt. for the reason best known sitting tight over the matter. Thereafter the respondent filed a writ petition bearing WP(C) No.31328 of 2021 with a prayer to give him promotion to the post of Superintending Engineer from 30.04.2018 and Chief Engineer from 01.07.2020, i.e. the date from which his

Prayanta Kumar Meher

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immediate junior got such promotions, and to grant all consequential service and financial benefits including further promotion, if any, within a stipulated period. . Xerox copy of the writ petition along with its annexures are filed herewith as **Annexure-1 Series**.

4. That, the above writ application was listed for fresh admission on 07.10.2021. The Hon'ble Single Judge without issuing notice and without giving any opportunity to response from the opposite parties, disposed of the writ application on 07.10.2021 itself with the following observations/orders :

"6. Fact involving the case reveals that there is a disciplinary proceeding against the petitioner besides the vigilance proceeding pending in the court of Special Judge, Vigilance, Sambalpur in CTR Case No.09 of 2015 arising out of Sambalpur Vigilance P.S. Case No.88 of 2010. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2010, but charge-sheet involving the Vigilance case was submitted in the year 2015. However the said vigilance case is yet to be disposed of. Pleading also further made clear that Disciplinary Proceeding initiated against the petitioner in the year 2016 is of no consequence because of Govt. Circular dated 17.06.2021 (Annexure-5). In this background of

Prayanta Kumar Meher

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case an allegation is made that promotion of the petitioner taking effect in the year 2018 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2010. For the settled position of law, this Court in disposal of the writ petition observes, petitioner cannot suffer for the long pendency of the vigilance proceeding. It is also not known when the Vigilance Proceeding initiated in the year 2010 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Principal Secretary to Govt. of Odisha, Water Resources Department, Bhubaneswar-O.P. No. 1 to give promotion to the petitioner to the rank of Superintending Engineer (Civil) from 30.04.2018 and Chief Engineer from 01.07.2020, i.e., the date of his juniors and batchmates got such promotions. However the promotions of the petitioner as per direction of this Court shall be subject to the ultimate outcome in the Vigilance Proceeding. Further it is also clarified that the promotion given to the petitioner to different ranks shall not confer equity in the event, he will ultimately lose the Vigilance Proceeding. Entire exercise shall be completed within four weeks from the date of communication of this direction. It is also

Prayanta Kumar Meher.

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clarified that upon promotion, petitioner shall also be entitled to all consequential benefits.

7. Writ the above observation, the writ petition thus stands disposed of."

Certified copy of the order dated 07.10.2021 passed in W.P. (C) No.31328 of 2021 by the Hon'ble Single Judge is filed herewith as Annexure-2.

Being aggrieved by the judgment and order dated 07.10.2021 passed in W.P. (C) No.31328 of 2021 under Annexure-2 by the Hon'ble Single Judge, the appellants beg to prefer this Appeal on the following amongst other;

GROUNDS

- (A) For that, the impugned order is wrong, illegal, erroneous, arbitrary and as such the same is liable to be set aside.
- (B) For that, a file was also Opened by Sambalpur Vigilance vide File No.24/2010 for acquisition of disproportionate assets by the Respondent. The matter was also referred to the W.R. Department vide letter No. 5711/VSS(N), Dt.31.05.2011 for initiation of D.P. against Sudhir Rajan Patel. D.P. has been initiated vide Water Resources Department Memorandum

Prasanta Kumar Mishra

10/10/2021

No.1430/WR(C), Dt.01.12.2016 against Sri Patel u/r-15 of the OCS (CC&A) Rules, 1962.

- (C) For that, in Sambalpur(V) CTR Case No.09 of 2015 arising out of Sambalpur Vigilance P.S.Case No.88 of 2010 was instituted against Sudhir Rajan Patel Son of Ramesh Chandra Patel working as Executive Engineer in Megalift Project for accumulation of disproportionate property to his known legal source of income. The case is subjudice.
- (D) In Sambalpur (V) CTR Case No.09 of 2015 arising out of Sambalpur Vigilance P.S.Case No.88 of 2010 was instituted against Sudhir Rajan Patel. Charge Sheet has been submitted on 31.12.2014. Cognizance was taken on 18.04.2015. The case is subjudice.
- (E) For that, the Hon'ble Single Judge has failed to take note of the decision of the Hon'ble Apex Court in the case of **Union of India Vs. K.V. Janakiraman, (1991) 4 SCC 409** in which it has been held that during pendency of the criminal case / disciplinary proceedings if the promotion is given it would stand rewarded notwithstanding his misconduct for the period when the disciplinary proceeding / criminal case was pending at the time of meeting of the DPC.

Prasanta Kumar Meher.

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A/R*

It has been held that if, on the date of DPC, charge sheet is submitted in a criminal case, then the sealed cover procedure is to be adopted. The Hon'ble Single Judge while directing to give promotion to the respondent has not taken into consideration the decision by the Hon'ble Apex Court in the case of *Janakiraman (supra)*.

- (F) For that, as the Departmental Proceeding is pending and Vigilance Cases are subjudice, the direction contained in the impugned order under Annexure-2 to give promotion to the Respondent from the date of his juniors and batch mates got such promotions has led to grave miscarriage of justice, and, is therefore unsustainable. It is also relevant to mention here that the present respondent has not arrayed the name of the Juniors or batch mates of the respondent as party to the writ petition. In such view of the matter, the impugned order is liable to be set aside.

- (G) For that in similar cases i.e. W.A. No.805 of 2021 filed by State of Odisha and another Vrs. Joseph Barik and batch of cases the Hon'ble Court while disposing the case on 11.5.2023 observed as follows :

"12. In the light of the above orders of the Govt., it is not possible for this court to

Prasanta Kumar Sheher

Prasanta Kumar Sheher

sustain the impugned orders of the learned Single Judge in the present cases directing the appellants to grant regular promotion to the respondents even without the caveat that such promotion would be subject to the outcome of the criminal case against such government servant. The said impugned orders of the learned Single Judge are accordingly hereby set aside."

13. It will of course be open to the respondents to request the criminal courts concerned to expedite the proceedings and bring the trials to any early conclusion."

In view of the above, the order dtd.7.10.2021 passed by the Hon'ble Single Judge in W.P.(C) No.31328 of 2021 is liable to be set aside.

- (H) For that, the impugned order under Annexure-2 was passed without any notice and without hearing the appellants. In absence of any notice, no Counter Affidavit was filed in the writ application. Since the appellants were not given any opportunity of hearing before passing the impugned order, the same is vulnerable being devoid of the principles of natural justice and as such the same is liable to be set aside.

Prasanta Kumar Mishra

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- (I) For that, perusal of the impugned order would show that the same is bereft of any reason and has been passed without hearing the appellants for which the same has rendered itself vulnerable and is liable to be set aside.
- (J) For that, the General Administration Department Office Memorandum No.3928/Gen., dated 18.02.1994, Office Memorandum No.29699-Gen, dated 01.11.1997, Office Memorandum No. 9162/Gen, dated 29.04.2017 and Office Memorandum No. 15643/Gen, dated. 17.06.2021 are more specific, which hold, the field with regard to adopting the sealed cover procedure against whom criminal proceeding is pending. Had the appellants been allowed to place the said circulars before the Hon'ble Single Judge, the impugned order would not have been passed.

Copies of the General Administration Department Office Memorandum No. 3928/Gen., dated 18.02.1994, Office Memorandum No. 29699/Gen, dated 01.11.1997, Office Memorandum No. 9162/Gen, dated 29.04.2017 and Office Memorandum No. 15643/Gen, dated. 17.06.2021 are annexed herewith as **Annexure-3 Series.**

Pranata Kumar Meher

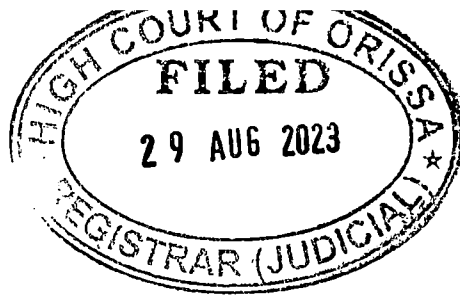
K. S. S. S.

(K) For that, undisputedly the case of the Respondent for promotion to the higher rank has been considered by the appellants and his case has been kept in a sealed cover keeping in view the statutory instructions issued from time to time from G.A. & P.G. Department vide Annexure-3 Series which are in force guiding the field of promotion of a Government employee of the State. In such a view of the matter, there is no error apparent on the face of record in the action of the competent Authorities in denying promotion to the Respondent.

(L) For that, the Appellants are aggrieved since the Respondent misled the Hon'ble Single Judge with a case making that, as if the Appellants were at fault in denying him promotion. It is humbly submitted that, so far as the alleged long pendency of the vigilance case is concerned, the Respondent himself is a party to the Vigilance Proceeding pending before a competent court of law. The Respondent made no endeavor whatsoever to expedite the proceeding before the concerned Vigilance Court. There is neither such pleading nor any proof of such effort of the Respondent. But on the other hand, in the writ petition, the Respondent has made out a case of suffering for the pendency of such proceeding.

Pranata Kumar Meher

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The Appellants are no way competent to regulate the proceeding of any Vigilance Court nor do they have any such jurisdiction and cannot be held responsible for the delay, if any, caused in such proceeding. Promoting such officials who face proceeding of corruption shall definitely send a negative message to the society at large. If at all the Respondent would have shown some urgency before the competent Vigilance Court, the proceeding would have been completed.

- (M) For that, the Appellants are aggrieved since the Hon'ble Single Judge on the date of listing of the case for fresh admission allowed the case with directions contained therein. The Hon'ble Single Judge held that the case of the Respondent was covered by Judgment rendered in similar other cases. The appellants should have been given an opportunity to defend the claim of the respondent and to submit the relevant circulars/ guidelines/ letters issued by G.A. & P.G. Department in the matter and to put forth the view/decision of the Department. It is humbly submitted that, a wrong message is being sent to the Public at large by allowing promotion to the concerned officers against whom Vigilance Proceedings are pending. The aim and object of the Govt. for a clean and transparent

Prasanta Kumar Behera.

H. S.

administration has been frustrated and the appellants are in difficulty to implement such direction of Hon'ble Court. This has lead to miscarriage of justice.

- (N) For that, the Appellants are aggrieved since the Respondent herein has not spelt out anything regarding his endeavor for quick disposal of the Vigilance Proceeding to whom he is very much a party. On the other hand the Department has no role/control over such judicial proceeding which are subjudice before a competent court of law. Therefore, the delay in such proceeding cannot be made attributable to the Department and the Respondent cannot escape the fact that he was involved in a departmental proceeding and has not spelt out anything as to his endeavor for quicker disposal of such proceeding.

- (O) For that, the impugned order under Annexure-2 is otherwise bad in law and is liable to be set aside.

PRAYER

Under these circumstances the Appellants most humbly pray that this Hon'ble Court be graciously pleased to Admit this Appeal, Call for the Records and after hearing the parties be pleased to set aside the

Parvanta Kumar Mehra

15/5/20

impugned order dated 07.10.2021 passed in W.P.(C)
No.31328 of 2021 under Annexure-2;

And for this act of kindness the Appellants as in
duty bound shall ever pray.

By the Appellants through

Cuttack

Date: 28.8.2023

Malaya KOTAN BROLA PRANTHAY
Addl. Government Advocate

Prasanta Kumar Meher

CERTIFICATE

Certified that the grounds set forth above are
good grounds to challenge and I undertake to support
the same at the time of hearing.

Further certified that Cartridge papers are not
available.

Malaya KOTAN BROLA PRANTHAY
Addl. Government Advocate
ENRLE NO 0-664/1994
my ph - 9437023322

SAMEER KUMAR DAS
Enrollment No. O-635/92
Ph. No. 9437172660

IN THE HIGH COURT OF ORISSA, CUTTACK
(Original Jurisdiction Case)

W.P. (C) No. 31328 of 2021

Sudhir Ranjan Patel ... Petitioner.
-Versus-
State of Odisha & others ... Opposite Parties.

INDEX

Sl. No.	Description of the document	Pages.
1.	Writ Petition 1-09
2.	<u>Annexure-1</u> Copy of the gradation list of Executive Engineers	11-13
3.	<u>Annexure-2</u> Copy of the final form in Sambalpur Vigilance PS Case No. 88 of 2010	14-26
4.	<u>Annexure-3</u> Copy of the govt. the notification dtd: 30.04.2018	27
5.	<u>Annexure-4</u> Copy of the of the govt. notification dtd: 01.07.2020	28-29
6.	<u>Annexure-5</u> Copy of the govt. circular dtd: 17.06.2021	30-32
7.	<u>Annexure-6</u> Copy of the representation	34
8.	Vakalatnama	

Cuttack.

Dtd: 01/10/21

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Pranjal
8-8-23

Officer
Deptt. of Water Resources

Advocate for the Petitioner.

SAMEER KUMAR DAS
Enrollment No. O-635/92
Ph. No. 9437172660

IN THE HIGH COURT OF ORISSA, CUTTACK

(Original jurisdiction case)

W.P. (C) No. 31328 of 2021

(Code No. 310799)

In the matter of:

An application under Article 226 and 227 of the Constitution of India.

And

In the matter of:

An application for a direction to the Opposite Parties to promote the petitioner to the post of Superintending Engineer and Chief Engineer from the date his immediate juniors have got such promotions and to grant all consequential service and financial benefits.

And

In the matter of:

Sudhir Ranjan Patel, aged about 59 years, Son of Ramesh Chadra Patel, Subhashree Bihar, Ainthapalli, Sambalpur, at

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Disual
8-8-23

Section Officer
Deptt. of Water Resources

present working as Executive Engineer in Megalix Project,

At/PO/Dist-^{Tharsuguda}~~Sundargarh~~.

.... Petitioner.

-Versus-

1. State of Odisha, represented through its Principal Secretary in Water Resources Department, Rajiv Bhawan, Bhubaneswar, District- Khurda.
2. Special Secretary to Govt. General Administration and Public Grievances, Govt. of Odisha, Lokaseva Bhawan, Bhubaneswar.

.... Opposite parties.

The matter out of which this writ petition arises was never before this Hon'ble Court in its present form.

To

The Hon'ble Chief Justice of Orissa High Court and His Lordships Companion Justices of the said Hon'ble Court.

The humble petition of the

Petitioner above named;

MOST RESPECTFULLY SHEWETH:

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Prasanna
8.8.23

Section Officer
Deptt. of Water Resources

1. That the petitioner in this case challenges the illegal, arbitrary, whimsical and discriminatory action of the Opposite Parties not considering the petitioner for promotion to the post of Superintending Engineer and Chief Engineer from the date his immediate juniors have got such promotions, even though he is otherwise eligible for such promotions. Therefore the petitioner prays for a direction to promote him to the post of Superintending Engineer 30.4.2018 and to the post of Chief Engineer from 01.07.2020 and to grant him all consequential service and financial benefits including next promotion as per his entitlement and more specifically keeping in mind his immediate juniors have got such promotions.

2. That the petitioner is a citizen of India and a permanent resident of the state of Odisha. The cause of action for filing this case arises within the territorial jurisdiction of this Hon'ble Court.

3. That the petitioner has started his service on 09.04.1996 as an Assistant Engineer and promoted to the post of Assistant Executive Engineer on 31.01.2014, Dy. Executive Engineer on 24.02.2014 and Executive Engineer on 26.02.2014 under the State Government in the Water Resources Department. Accordingly in Govt. order no. 13042 dtd: 29.05.2014 the gradation list of the Executive Engineers of the

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8-8-23

Section Officer

Dept. of Water Resources

Water Resources Department was published and the petitioner was placed at Sl. No.91. For better appreciation of the case the relevant extract of the gradation list of Executive Engineers in govt. letter no.13042 dtd: 29.05.2014 is annexed herewith as Annexure-1.

4. That it is worthwhile to mention here that while the petitioner was continuing as an Assistant Engineer Sambalpur Vigilance PS case No. 88 of dtd: 2010 dtd: 30.09.2010 corresponding to CTR Case No.09 of 2015 was instituted against the petitioner on the allegation of disproportionate of assets, which is now pending in the Court of Special Judge Vigilance, Sambalpur. However the trail in the case is yet to start. Copy of the extract of the Final Form in Sambalpur Vigilance PS Case No. 88 of 2010 is annexed herewith as Annexure-2.

5. That it is respectfully submitted that on a plain reading of the FIR and the charges leveled against the present petitioner in the vigilance case no prima-facie case is established against the petitioner. He has been dragged unnecessarily to such a litigation where he has no role. Be that as it may having been made an accused in the case, he was forced to face trial. Now the cases are pending for last 11 years. In the process the petitioner is unnecessarily harassed

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Prisna

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for no fault and he has been forced to suffer for those fictitious litigation. In this peculiar facts and circumstance when the petitioner has no role in the entire matter of disposal of the criminal case instituted against him by the state functionaries, he has been sufficiently penalized and suffered with mental agony for last so many years. But the law is well settled that the person cannot be put to unnecessary harassment or can said to be a convict before trial. But keeping the matter hanging for last 11 years the petitioner has sufficiently penalized and no more punishment can be imposed upon him at the end of the trial because of the involvement and nature of allegation.

6. That it is not out of place to mention here that the next promotion of the Executive Engineer is to the rank of Superintending Engineer. The petitioner having been brought into the cadre of Executive Engineer is due for promotion to the post of Superintending Engineer (Civil). But the State Government in notification no.12175/WR dtd: 30.04.2018 while promoting many Executive Engineer to the post of Superintending Engineer including his juniors, the petitioner was ignored. Whereas his immediate juniors have got further promotions to the post of Superintending Engineer

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Prisual

8-8-23

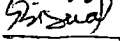
**Section Officer
Deptt. of Water Resources**

from 30.04.2018. Further those juniors have got promotion to the post of Chief Engineer (Civil) in government notification No.11964 dtd: 01.07.2020. On enquiry it has been ascertained by the petitioner that because of pendency of the vigilance case he is debar of such promotions. For better appreciation of the case the copies of the government notifications dtd: 30.04.2018 and 01.07.2020 are annexed herewith as Annexure-3 and 4 respectively.

7. That it is not out of place to mention here that basing on these allegations in the vigilance cases, the state government has instituted a disciplinary proceeding against the petitioner in the year 2016 on the selfsame charges, which is still pending. However in a recent circular bearing office memorandum No.15643/Gen dtd: 17.06.2021, the state government in GA & PG department has directed to allow adhoc promotion to the government employees against whom the departmental proceeding is pending for more than two years. Copy of the government office memorandum dtd: 17.06.2021 is annexed herewith as Annexure-5.

8. That being aggrieved by such successive harassment the petitioner has represented to the authority concerned for consideration for his claim for promotion from the date his immediate juniors have

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Deptt. of Water Resources

got such promotion, but the State Government for the reason best known sitting tight over the matter. Copy of the representation is annexed herewith as Annexure-6.

9. That it is respectfully submitted that there is no other legal impediment on the part of the authorities to promote the petitioner to the post of Superintending Engineer and Chief Engineer from the date his immediate juniors got such promotions. It is needless to mention here that there was no allegation against the petitioner whatsoever save and except the aforesaid baseless criminal case. The law is well settled that mere pendency of a criminal case for a long time an employee cannot be put to harassment and debar of his rightful claim for promotion. It is also the settled law that if no regular promotion is given to such an employee adhoc promotion can be given by reviewing his performance. But he was not given the legitimate promotions to the higher posts. The reason of pendency of criminal case cannot be a good ground to debar the petitioner for promotion. The authorities are estopped to utilize the pendency of the criminal case against the petitioner at their whim, when they know the petitioner has no hand to this. It is clear case of discrimination and arbitrariness of the authority concern besides the facts it is illegal.

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8-8-23

Section Officer

Deptt. of Water Resources

10. That for ends of justice and proper adjudication of the matter the petitioner has got no other speedy and efficacious remedy other than invoking the extra- ordinary jurisdiction of this Hon'ble Court under Article 226 and 227 of the constitution of India.

PRAYER

Under the above circumstances it is therefore humbly prayed that the Hon'ble Court be graciously pleased to direct the Opposite Parties to give promotion to the petitioner to the post of Superintending Engineer from 30.04.2018 and to the post of Chief Engineer from 01.07.2020, the date his immediate juniors got such promotions and to grant him all consequential service and financial benefits including further promotion, if any, within a stipulated period as deem fit and proper;

And/or issue any other appropriate writ/writs, order/orders, direction/directions as deem fit and proper in the fitness of the case;

And for this act of this kindness as in duty bound the petitioner shall ever pray.

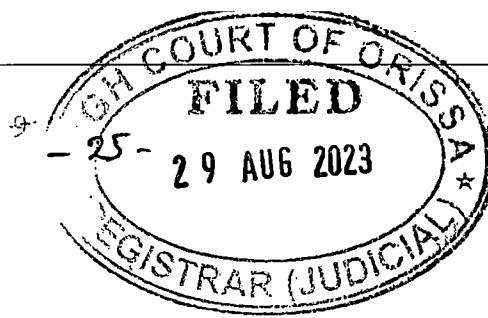
Cuttack

Dtd: 01.10.2021

By the petitioner through
Advocate.

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Disval
8.8.23
Section Officer
Deptt. of Water Resources



AFFIDAVIT

I, Sudhir Ranjan Patel, aged about 59 years, Son of Ramesh Chadra Patel, Subhashree Bihar, Ainthapalli, Sambalpur, at present working as Executive Engineer in Megalift Project, At/PO/Dist-
~~Sundargarh~~ ^{Tharuguda} do hereby solemnly affirm and state as follows:

1. That I am the petitioner in this case.
2. That the facts stated in this petition are all true to the best of my knowledge and belief.

Identified by

S. K. DAS
11/10/24
Advocate

Sudhir Ranjan Patel

Deponent.

Certificate.

Certify that in want of cartridge paper this petition is typed in this thick white papers.

S
Advocate.

SAMEER KUMAR DAS
Enrollment No. O-635/92
Ph. No. 9437172660

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8-8-23
Section Officer
Deptt. of Water Resources

Government of Odisha
Department of Water Resources

No. 13042/WR
FE-I-VIA-12/2014

Bhubaneswar, dated 29/5/14

OFFICE ORDER

The revised tentative gradation list of Executive Engineer(Civil) cadre in the Department of Water Resources as on 01.03.2014 was published, following the catch up rule and circulated to all concerned inviting objections/ suggestions vide this Deptt. Office Order No.7832/WR dtd.22.03.2014. Objections/ suggestions received from concerned Executive Engineers (Civil) with the stipulated time period have been carefully examined and necessary corrections basing on available records and taking into consideration of verdicts of Hon'ble Courts have been incorporated in the gradation list wherever considered necessary and thus the said gradation list is made final.

2. Accordingly, the final gradation list of Executive Engineer(Civil) cadre as on 31.03.2014 is hereby published as in annexure and circulated among all concerned.
3. The said gradation list is also available in the Departmental website for general information of all concerned.

Sd/- (A.K.Pani)

Additional Secretary to Govt.

Memo No. 13043/WR, Dt. 29/5/14

Copy with the copy of the final gradation list forwarded to the officers concerned for information and necessary action.

28-5-2014

Additional Secretary to Govt.

Memo No. 13044/WR, Dt. 29/5/14

Copy with the copy of the final gradation list forwarded to the EIC, WR, Odisha, Bhubaneswar/ Confidential Branch, DoWR/ FE-I Branch (10 spare copies for guard file) for information and necessary action.

28-5-2014

Additional Secretary to Govt.

Memo No. 13045/WR, Dt. 29/5/14

Copy with the copy of the final gradation list forwarded to the Secretary, Odisha Public Service Commission, Cuttack for information and necessary action.

28-5-2014

Additional Secretary to Govt.

Memo No. 13046/WR, Dt. 29/5/14

Copy with the copy of the final gradation list forwarded to the Head, state Portal Group, IT Centre, Secretariat for uploading in Odisha Govt. website- <http://www.dowr.orissa.gov.in>, Deptt. of Water Resources in place of earlier gradation list.

28-5-2014

Additional Secretary to Govt.

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28-5-2014

Section Officer
Deptt. of Water Resources

Handwritten signature

**REVISED GRADATION LIST OF EXECUTIVE ENGINEERS (CIVIL), DEPARTMENT OF WATER RESOURCES
AS ON 01.03.2014.**

Sl. No. in present rank	Sl. No. in the gradation list AE(C) as per Letter No. FE-I-II M34/32-26051 dt. 24.07.1992	NAME	Category	Date of Birth	Date of first appointment	Date of joining as AE	Date of joining as AEE	Date of promotion/ joining as DEE	Date of Promotion / joining as EE	Remarks
1	2	3	4	5	6	7	8	8	9	10
1	365	PREMANANDA SAMANTRAY	General	01.07.1956	26.09.1979	29.07.1981	01.2001	01.2001	26.10.2001	
2	390	RABINDRA KUMAR MOHAPATRA	General	10.10.1957	05.11.1979	30.11.1981	12.02.2001	12.02.2001	11.11.2001	
3	437	RAJENDRA KUMAR MOHAPATRA	General	01.07.1956	17.01.1980	29.09.1981	11.12.2003	11.12.2003	29.05.2006	
4	454	KRISHNA GOPAL BEHERA	General	07.01.1959	28.07.1981	28.07.1981			29.05.2006	
5	447	GUNADHAR MISHRA	General	20.11.1956	09.07.1982	07.09.1982	21.02.2004	21.02.2004	29.05.2006	
6	470	MD. AYUB ALI	General	29.07.1957	19.08.1982	19.08.1982	21.02.2004	21.02.2004	04.02.2009	
7	474	A. MURALI DORA	General	05.07.1956	30.07.1981	30.07.1981	29.06.2004	29.06.2004	05.02.2010	
8	479	SUBRAT DAS	General	18.04.1962	12.11.1983	12.11.1983	22.05.2004	22.05.2004	17.10.2007	
9	480	BAINA CHARAN PANDA	General	05.01.1958	21.01.1983	21.01.1983	22.05.2004	22.05.2004	09.02.2009	
10	481	GOPAL PRASAD RAY	General	28.05.1959	27.12.1982	27.12.1982	20.10.2004	20.10.2004	17.10.2007	
11	482	HARSABARDHAN MOHANTY	General	10.08.1958	24.12.1982	09.09.1985	20.10.2004	20.10.2004	17.10.2007	
12	483	JYOTIRMAYA RATH	General	14.06.1961	24.12.1982	09.09.1985	20.10.2004	20.10.2004	17.10.2007	
13	484	PRADEEPTA KUMAR DAS	General	24.10.1960	24.12.1982	24.12.1982	20.10.2004	20.10.2004	17.10.2007	
14	485	DHIREN KUMAR SAMAL	General	07.09.1961	02.11.1983	02.11.1983	25.11.2005	25.11.2005	14.11.2006	
15	486	PITAMBAR PANDA	General	25.06.1960	14.12.1983	02.01.1984	20.10.2004	20.10.2004	04.02.2009	
16	487	PRASANTA KUMAR ROUTRAY	General	21.08.1959	24.12.1982	24.12.1982	20.10.2004	20.10.2004	17.10.2007	
17	488	SAROJ KUMAR PATTHNAIK	General	04.01.1961	01.05.1984	07.11.1985	20.10.2004	20.10.2004	17.10.2007	
18	489	BIBHUTI BHUSAN DHAL	General	15.04.1959	29.12.1982	29.12.1982	20.10.2004	20.10.2004	17.10.2007	
19	490	MANOJ KUMAR PATRA	General	21.01.1961	24.12.1982	24.12.1982	20.10.2004	20.10.2004	17.10.2007	
20	491	SAROJ KUMAR PANDA	General	11.08.1959	27.12.1982	27.12.1982	21.10.2004	21.10.2004	17.10.2007	

Principal Secretary to Govt.
Water Resources Department

Addl. Secy. in Charge

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Original
8.8.2023

**Section Officer
Deptt. of Water Resources**

Sl. No. in present rank	Sl. No. in the graduation list AE(C) as per Letter No. EE-I-II M34/92-26051 dt.24.07.1992	NAME	Category	Date of Birth	Date of first appointment	Date of joining as AE	Date of joining as AEE	Date of promotion/ joining as DEE	Date of Promotion/ joining as EE	Remarks
1	2	3	4	5	6	7	8	8	9	10
90	637	GOPAL CHANDRA DAS	General	07.05.1961	15.02.1984	15.02.1984	31.01.2014	24/02/2014	26/02/2014	
91	638	SUDHIR RANJAN PATEL	General	01.03.1962	09.04.1986	09.04.1986	31.01.2014	24/02/2014	26/02/2014	
92	640	ASHOK KUMAR PATRA	General	01.04.1960	05.04.1986	05.04.1986	31.01.2014	24/02/2014	26/02/2014	
93	642	SATYANARAYAN DHAL	General	11.08.1960	04.01.1986	04.01.1986	31.01.2014	24/02/2014	26/02/2014	
94	643	ANANDA CHANDRA SING	General	06.04.1958	06.01.1983	06.01.1983	31.01.2014	24/02/2014	26/02/2014	
95	644	TAPAN KUMAR CHAKRAVARTY	General	17.10.1958	25.02.1983	25.02.1983	31.01.2014	24/02/2014	26/02/2014	
96	645	SISIR KUMAR SATAPATHY	General	15.01.1961	02.11.1983	02.11.1983	31.01.2014	24/02/2014	26/02/2014	
97	646	PRAVAT RANJAN ROUT	General	10.08.1961	04.11.1986	04.11.1986	31.01.2014	24/02/2014	26/02/2014	
98	648	MANOJ COUDHURAY	General	04.09.1960	08.10.1986	08.10.1986	31.01.2014	24/02/2014	26/02/2014	
99	649	SUBASH CHANDRA MISHRA	General	06.07.1960	07.04.1986	07.04.1986	31.01.2014	24/02/2014	26/02/2014	
100	650	AKHAYA KUMAR DAS	General	04.12.1961	11.04.1986	11.04.1986	31.01.2014	24/02/2014	26/02/2014	
101	653	SANATA PATTNAIK	General	13.07.1959	05.06.1986	05.06.1986	31.01.2014	24/02/2014	26/02/2014	
102	655	ASHOK SAMAL	General	12.05.1959	05.06.1986	05.06.1986	31.01.2014	24/02/2014	26/02/2014	
103	656	DIPTI RANJAN PANDA	General	15.05.1962	29.05.1986	29.05.1986	31.01.2014	24/02/2014	26/02/2014	
104	691	CHANDRA SEKHAR PADHI	General	15.06.1965	13.01.1989	13.01.1989	31.01.2014	24/02/2014	26/02/2014	
105	692	MAHENDRA KUMAR BHUYAN	General	20.05.1963	21.01.1989	21.01.1989	31.01.2014	24/02/2014	26/02/2014	
106	693	ASHUTOSH DASH	General	29.06.1965	11.01.1989	11.01.1989	31.01.2014	24/02/2014	26/02/2014	
107	694	BHAKTA RANJAN MOHANTY	General	07.06.1966	20.01.1989	20.01.1989	31.01.2014	24/02/2014	26/02/2014	
108	696	MUKUL CH. BERA	General	03.05.1966	16.01.1989	16.01.1989	31.01.2014	24/02/2014	26/02/2014	
109	713	BALESWARNATH SAMU	General	01.06.1963	12.02.1989	12.02.1985	31.01.2014	24/02/2014	26/02/2014	
110	699	LINGARAJ GOUDA	General	02.05.1966	19.01.1989	17.01.1929	31.01.2014	24/02/2014	26/02/2014	
111	700	SATRUGHNA MOHARANA	General	12.04.1964	21.01.1989	21.01.1989	31.01.2014	24/02/2014	26/02/2014	
112	701	BIDAYA KUMAR SAMAL	General	10.05.1965	16.01.1989	16.01.1989	31.01.2014	24/02/2014	26/02/2014	

Principal Secretary to Govt.
Resources Department
BBSR

Addl. Secy to Govt.

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8.8.23
Section Officer
Deptt. of Water Resources

13
OBJECTION / SUGGESTION RECEIVED FROM EXECUTIVE ENGINEERS FOR FINALIZATION OF
GRADATION LIST IN THE GRADE OF EE(C), DoWR.

Sl. No.	Name of the Officers	Representation	Remarks
1.	Sri Pradipta Kumar Das (Sl.No.84)	➤ Represented for correction of his date of birth as 13.01.1960 instead of 13.11.1960	➤ Corrected in the Gradation list accordingly.
2.	Sri Mukul Chandra Bera (Sl.No.108)	➤ Represented for entry of his date of joining on 24.02.2014 and on 26.02.2014 in the post of Dy.EE(C) & EE(C) respectively.	➤ Corrected in the Gradation list accordingly.
3.	Sri Gagan Bihari Sahoo (Sl.No.121)	➤ Represented for Final Gradation list of AEE(C) ➤ Represented for correction of date of appointment on 16.01.1989. Date of joining as AEE(C) on 01.07.2001 Date of joining as EE(C) on 09.01.2006	➤ Action will be taken separately. ➤ Corrected in the Gradation list accordingly.
4.	Sri Sagar Mohanty (Sl.No.124)	➤ Represented to recast the gradation list on the basis of the common merit list prepared by the O.P.S.C in response to their Advertisement No.08 of 1987-88.	➤ After verification of the authentic merit list of AE(C) obtained from O.P.S.C through RTI placed at Flag-A necessary correction has been made in the gradation list.
5.	Sri Subasis Padhi (Sl.No.125)		
6.	Sri Aswini Kumar Mohanty (Sl.No.126)		
7.	Sri Ananda Chandra Sahoo (Sl.No.127)		
8.	Sri Krushna Chandra Mohanty (Sl.No.129)		
9.	Sri Deepak Kumar Mohanty (Sl.No.130)	➤ Represented for correction in the date of joining in the post of AEE & EE. ➤ All have represented to place their names in the gradation list above Sl.No.65 (Sri Pratyush Ranjan Das as they have joined as EE much earlier than Sri Das)	➤ Corrected in the Gradation list accordingly. ➤ As their position/ seniority in the list published by OPSC is below Sri Sagar Mohanty and others, as per catch up principle original seniority has been restored. Hence these representations may be rejected having no merit.
10.	Sri Pravakar Behera (Sl.No.115)		
11.	Sri Chandeswar Behera (Sl.No.117)		
12.	Sri Rohit Kumar Sethy (Sl.No.119)		

Principal Secretary to Govt.
Water Resources Department
Bhubaneswar

Addl. Secy. to Govt.
Deptt. of Water Resources

25.5.14

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8.8.23
Section Officer
Deptt. of Water Resources

Final Form

ANNEXURE-2

Sp. Judge (Vig)
(S.B.)
S.P.

0058250

In the Court of

Special Judge, Vigilance, Sambalpur

1. District. Sambalpur

Vigilance P.S., Sambalpur

2010

88

30.09.2010

Final Demand/Charge sheet No. 83

Date 31.12.2014

P.C. Act. 1988

13(2) r/w 13(1)(e)

I.P.C.

109

X

X

X

Other Verbs and Sections

5. Type of final form Charge Sheet

Charge sheet/No charge sheet/Not charge sheet

Verdict of evidence/others

TR. R. appeared

Fals. Mistake of fact/Mistake of law/Non-compliance

Civil Nature

Criminal Nature

Not Served/Not Served

Not Served/Not Served: Yes/No (If Not, then as follows)

8. If supplementary or original

Original

Name of the person to whom the form is given

Sri Parameswar Kishan, OPS

Dy. S.P., Vigilance, Sundargarh Unit, Dist.-Sundargarh.

10. (a) Name of complainant/Informant

Sri Parameswar Kishan

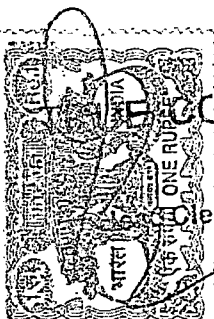
(b) Father's/Mother's/Husband's Name

S/o. Sri Putuku Kishan

11. Date on which the complainant/Informant was informed of the result

31.12.2014

See
31.12.2014 (Vig)
Sambalpur

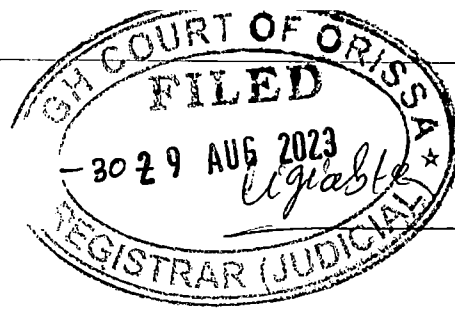


Final Form

in CTR Case No. 09/2015 of the

Court of Special Judge (Vigilance),
Sambalpur

Section Officer
Dept. of Water Resources
8-8-27
True Copy Attested
by



FINAL FORM

(Under Section 173 Cr. P.C.)

(P.M Rule 174/81)

IN THE COURT OF SPECIAL JUDGE VIGILANCE, SAMBALPUR

1. District : Sambalpur PS. Vigilance P.S, Sambalpur
2. Year:2010 FIR No. 88 Date: 30.09.2010
3. Final Report / Charge Sheet No. : 83
4. Date : 31.12.2014
5. Act: P.C. Act. 1988 Section : 13(2) r/w 13(i) (e)
L.P.C 109
6. Type of Final Form : Charge Sheet
For want of evidence/others
7. If F.R. un occurred : XXX
8. Refer Notice:
(a) Served / Not Served : XXX
(b) Copy enclosed : XXX
9. If Supplementary or original : Original
10. Name, Rank, and number (if any) of the : Sri Parameswar Kishan, OPS
Dy. S.P., Vigilance, Sundargarh Unit, Dist- Sundargarh.
10. (a) Name of Complainant/ Informant : Sri Parameswar Kishan
(b) Father's Name : S/o Sri Putuku Kishan
11. Date on Which the Complainant /
Information was informed of the result : Dt. 31.12.2014

True Copy Attested

Signature
5.8.23
Section Officer
Deptt. of Water Resources



... (separate list can be attached, if necessary)

Extracted Copy	P.S. Property Number No	From whom/where recovered or seized	Disposal
Letter No.8207(a) Dtd.26.08.2010 of Superintending Engineer, Hirakud Dam Circle, Burla.	C.M.R. No. 28/2015	Received reply from different quarters on the basis of requisitions submitted by Sri R.K.Kanungo, DSP, Vigilance, Sundargarh	Deposited in Central Malkhana, Vigilance, Sambalpur.
Letter No. 331/V-TW Dtd.13.08.2010 of Superintending Engineer, Vigilance, Technical Wing, Cuttack.	-do-	-do-	-do-
Letter No./PF/2747/UE Dtd.29.06.2010 of Executive Engineer, Canal Divn., Bgh.	-do-	-do-	-do-
Letter No. 10300/JPA/ Dtd.14.06.2010 of R. Divisional Manager, National Insurance Co. Ltd., Kolkata	-do-	-do-	-do-
Letter No.3115 Dtd.03.06.2010 of Tahasildar, Sadar, Sambalpur.	-do-	-do-	-do-
			(Contd...P/2(n))

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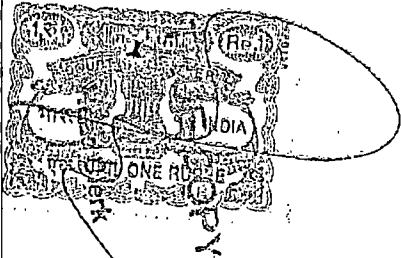
2. Detail of properties /Documents recovered / seized during the investigation and relied upon (separate sheet can be attached if necessary)

Sl. No.	PROPERTY/DOCUMENT DESCRIPTION	ESTIMATED VALUE	P.S. PROPERTY REGISTER NO.	FORM WHO / WHERE RECOVERED OR SEIZED	DISPOSAL
1	2	3	4	5	6
1	Letter No. 8207(a) Dat. 026.08.2010 of Superintending Engineer, Hirakud Dam Circle, Burla		C.M.R No. 38/2015	Received replay from different quarters on the basis of requisitions submitted by Sri R.K.Kanungo , DSP, Vigilance, Sundargarh	Deposited in Central Malkhana, Vigilance, Sambalpur
2	Letter No. 531/V-TW Dtd. 13.08.2010 of Superintending Engineer, Vigilance. Technical Wing, Cuttack		-do-	-do-	-do-
3	Letter No. No./PF/274/UE Dtd. 29.06.2010 of Executive Engineer, Canal Division, Bargarh		-do-	-do-	-do-
4	Letter No. 10300/JPA/Dtd. 14.06.2010 of R. Divisional Manager, National Insurance Co. Ltd., Kolkata		-do-	-do-	-do-
5	Letter No. 3115 Dtd. 03.06.2010 of Tahasildar, Sadar Sambalpur		-do-	-do-	-do-
					{Contd...P/2(a)}

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Section Officer
Deptt. of Water Resources



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				Occupation	Address	
				5	6	
01.	Sri Radhakrishna Kanungo	S/o-Late Upendra Nath Kanungo	23.01.1958	Govt. Service	Vill-Orangi, PS- Sadar, Dist- Balasore, At/Pr-DSP Vigilance, Sundargarh.	FIR
02.	Sri Premanada Samantray	Executive Engineer	Canal Division, Bargarh	-do-	Bargarh	Prove the pay particular/ joining/transfer and land purchase
03.	Sri Monoj Kumar Meher	Branch Manager	Life Insurance,	Corporation	Bargarh Branch.	Life Insurance Policies.
04.	Sri Aansuman Das	Branch Manger	ICICI Bank	-	Sambalpur	Statement of SB account
05.	Sri Pravat Chandra Pradhan	S/o-Sri Golak Pradhan,	-	Govt. Service	At/Pr- Jr. M.V.I, O/o-RTO, Sambalpur	Possession of vehicles and fuel cost/expenditure
						{ Contd... P/5(a) }

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Sl. No.	Name	Father's Name	Date of Birth	Occupation	Address	Type of Evidence To be Tendered
1	2	3	4	5	6	7
01	Sri Radhakrishna Kanungo	S/o- Late Upendra Nath Kanungo	23.01.1958	Govt. Service	Vill- Orangi, PS- Sadar, Dist- Balasore At/Pr-DSP Vigilance, Sundargarh, Bargarh	FIR
02	Sri Premanada Samantray	Executive Engineer	Canal Division, Bargarh	-do-		Prove the pay particular/Joining/ transfer and land purchase.
03	Sri Manoj Kumar Maher	Branch Manager	Life Insurance	Corporation	Bargarh Branch	Life Insurance Policies.
04	Sri Aansuman Das	Branch Manager	ICICI Bank		Sambalpur	Statement of SB account passion of vehicle and fuel cost/expenditure
05	Sri Pravat Chandra Pradhan	S/o- Sri Golak Pradhan,		Govt. Service	At/Pr-Jr. M.V.I, O/o-RTO, Sambalpur	{Contd.....P/5(a)}

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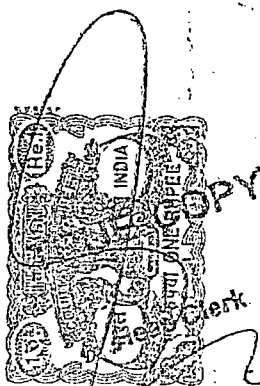
Section Officer
Deptt. of Water Resources



that the accused Sudhir Ranjan Patel, Asst. Engineer, O/o BDO, Nuanpada Block, Dist.- Nuanpada has acquired disproportionate assets worth of Rs.43,18,856/- beyond his known source of income under different capacities of posting during the service period.

The investigation disclosed that basing on the allegation of possession of assets beyond the known sources of income by Sri Sudhir Ranjan Patel, Asst. Engineer, Nuapada Block, his residential building located at Subhashree Vihar, Sambalpur, Office Room located at Block Office, Nuanpada, Native House located at village Bandhapali, P.S-Kuchinda, Dist - Sambalpur, Father-in -Law's House located at village Kuntara and Govt. Residential Quarter located at Block premises, Nuanpada were searched simultaneously on 22.04.2010 under the strength of Search Warrant issued by the Hon'ble C.J.M., Sambalpur vide Sambalpur Vigilance Misc. Case No.3/2010 in presence of the suspect officer and official witnesses in order to unearth the movable/ immovable assets, documents relating to bank deposits, debentures, gold and silver ornaments and cash etc. During investigation, a prayer was made in the Hon'ble Court of Spl.Judge, Vigilance, Sambalpur to tag the Misc. Case No-3/2010 of CJM, Sambalpur.

The investigation further revealed that accused Sudhir Ranjan Patel, Asst. Engineer is inhabitant of village Bandhapali under Kuchinda P.S. in the District of Sambalpur. He is the eldest son of his father Sri Ramesh Ch. Patel who was serving as U.P. School teacher and had retired from the service since 1994 on superannuation. The younger brother, Sri Samir Ku. Patel is staying at his native village with his retired father and looking after the cultivation of the landed property. The only sister, Smt. Kalpana Patel of the accused has since been married. Sri Ramesh Ch. Patel has got Ac.15.82 dec. of non irrigated single cropped landed property at Bandhapali Mouza as confirmed by Tahasildar, Kuchinda. All the landed properties have been



Sd/-
Signature of OIC
31/12/14

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8-8-23

**Section Officer
Deptt. of Water Resources**

Sri Parameswar Kishan, OPS

DSP Vigilance,
Sundargarh Unit

31.12.2014

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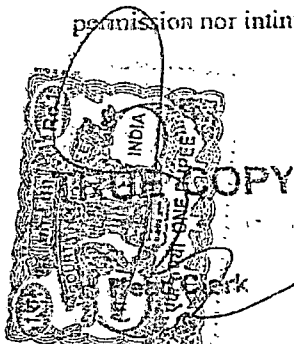
cultivating his share of lands through BHAGA CHASA. The annual yield rate of Kuchinda Block from the Bureau of Statistic, Vigilance Directorate, Odisha, Cuttack, extent of landed property from the office of the Tahasildar, Kuchinda and the use of the land from the office of the District Agriculture officer, Kuchinda, Dist.- Sambalpur were obtained and basing on the information the agriculture income of the accused Patel has been computed on the same footings.

The accused Sudhir Ranjan Patel after completion Bachelor of Technical Education in Civil stream, entered into Govt. Service as Asst. Engineer on 27.08.1984 and posted to Indravati Project in the District of Kalahandi. He continued their till 1996 and then posted to Canal Division, Bargarh in the year 1996. He was again posted to the O/o. Superintending Engineer, Hirakud Dam Circle, Burla, Dist.- Sambalpur and later on posted to Nuanpada Block, Dist.- Nuanpada and is continuing as such since 17.02.2010.

The accused got married to Sandhyarani Patel, D/o- Khirod Chandra Patel of Village Kuntara, Dist.- Sambalpur on 07.05.1989. At the time of marriage, he had received one Scooter, Refrigerator etc. as customary gift. He has been blessed with one daughter namely: Soumyamayee Patel, (DOB-16.09.1994) and one son Arup Kumar Patel (DOB-14.08.1997). The daughter Miss. Soumyamayee Patel was prosecuting her study in +2 where as Sri Arup Ku. Patel was reading at Class-X in Central School, Sambalpur. Smt. Sandhyarani Patel is a housewife having no independent sources of income. The investigation further revealed that Smt. Sandhyarani Patel, W/o. Sudhir Ranjan Patel is having one Plot of Land vide Plot No.202/2449 measuring area Ac.0.200 of kisma Ma.Sa at Unit No.1, Bhata and another Plot vide Plot No.232/7492, measuring area of Ac.0.064 of Kisma Ba. Pa at Unit No.15, Ainthapali as confirmed by the Tahasildar, Sambalpur vide letter No.3115 dt.3.6.2010. It also established that, no revenue rent has been paid against the Plot No.232/7492 of Sambalpur Town Unit No.15, Ainthapali and Plot No.202/2449 of Sambalpur Town Unit No.1 since the mutation of the land. The land mentioned above has not yet been converted to non agricultural purpose.

Further, the accused Sudhir Ranjan Patel purchased a plot of land vide Plot No.875, Khata No.502 measuring an area Ac.0.090dec. at Unit-15, Sambalpur Town on 29.10.2001 through a Sale Deed No.2310/2006 for a consideration amount of Rs.1,53,000/- from one Linson Gerge of Sambalpur Town. The land was registered at Registering Officer, Sambalpur on 29.10.2001. After purchase, Sri Patel had constructed a double storied building over the said plot of land at Subhashree Vihar in the year 2008 and completed in the year 2009. The accused Patel and his family members are also staying in the said building since the day of completion of the building. The said building was technically inspected by the Vigilance Technical Wing, Vigilance Directorate, Odisha, Cuttack on 25.03.2011 & 26.03.2011 and the cost of the building was computed to Rs.36,94,020.00. As claimed by the accused Sudhir Ranjan Patel and his wife Smt. Sandhya Rani Patel, Rs.3,69,402/- has been deducted from the cost of the building towards the supervision charges.

The accused Patel and his family members have occupied one portion of the house where as the rest portion of the building has been given on rent to four persons namely: 1) Sri Ashis Kumar Behera who is working as Fleet Officer, Indian Oil Corporation Ltd., Sambalpur, 2) Sri Naital Prasanna Kumar in the office of the Indian Oil Corporation, Divisional Office, Sambalpur, 3) Sri Paban Kumar, Agent of a Travel Agency at Sambalpur and 4) Sri Sujit Dash working in Bhusan Steel. Being examined the accused Sudhir Ranjan Patel and his wife Sandhya Rani Patel failed to produce any documents relating agreement between the owner and the tenants, money receipt or any acknowledgement of receipt of house rent from the tenants. Further, there was also no separate electric connection given to the tenants in the building. Further, the accused has neither obtained permission nor intimated the competent authority about leasing out the residential house on

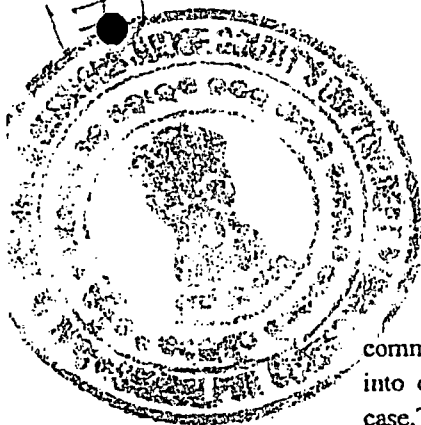


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8-8-23

Section Officer
Deptt. of Water Resources

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Sd/- *[Signature]*
Sambalpur



Section Officer
Dept. of Water Resources

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commercial purpose. However, the house rents received from the so called tenants have been taken into consideration and computed towards the income of the accused Sudhir Ranjan Patel in the case. The investigation further disclosed that the accused Patel had also purchased another Plot of land measuring an area Ac.0.20 dec. of land at village Bhatra on 30.05.1995 from Sri Himadri Kumar Behera vide Plot No.202/2725, Khata No.351/190 in the name of his wife Sandhya Rani Patel. The said plot of land was registered on 30.05.95 in the Registration Office, Sambalpur Vide Sale Deed No.1103/95 for consideration amount of Rs.80,000/-.

Sri Patel had also purchased another Plot of land at Unit - 15 Sambalpur Town on 08.11.2001 vide Khata No.211, Plot No.232 area 0.64 Dec. - Sale Deed No.2429/2001 for Rs.1,12,000/- in the name of his wife Sandhyarani Patel from Gopal Agarwal and others. The said land was registered at Registering Officer, Sambalpur on 08.11.

Investigation further revealed that the accused Sri Patel has obtained permission for construction of residential building at Ainthapali, Sambalpur over Plot No.875 and Khata No.502 from Supdt. Engineer, Hirakud Dam Circle, Burla, but he had not taken permission/given intimation about acquisition of any movable/immovable assets as required under Rule - 21 of O.G.S.C Rule - 1959. He had also not given intimation about availing of any loan, hand loan, financial assistance from any sources after availing the loan as required under Rule - 19 of the Govt. Servant Conduct Rule. Further, he had not obtained permission/intimation about engagement of his family members in any private trade business as required under Rule - 17 of the Conduct Rules. He had also not taken permission for leasing out his residential house on rent as confirmed by BDO, Nuapara vide his Letter No.1154 Dtd.21.05.2010

The investigation further disclosed that the accused Patel and his family members are having deposits with ICICI Bank Sambalpur in A/c. No.019401806094, deposit with SBI Budharaja Branch, Sambalpur vide A/c. No.30190075553, deposit with Postal Pass Book vide A/c. No.747905, deposit with Kusumi Lamps vide A/c. No.2036, deposit with the Axis Bank, Nuanpada Branch vide A/c No.81110100007276, investment in IDBI Flexi Bond, investment in Micro Finance Ltd. Burla and had also purchased Kisan Vikas Patra for Rs.66,000/- from Kuchinda Post Office which have been recovered and seized in the present case in presence of the witnesses during investigation. The statements of accounts from the different banks and confirmation from the financial institutions have been obtained basing on the requisitions during course of investigation. Further, investigation revealed that, accused Patel is having LIC Policies with LIC of India, Bargarh Branch vide Policy No.591398231 for Rs.2,51,019/- in the name of Sandhya Rani Patel (wife), Policy No.590819980 for Rs.83,290/- in the name of Soumya Mayee Patel (daughter), Policy No.590819969 for Rs.25,587/- in the name of Sri Arup Kumar Patel (son), Policy No.591406088 for Rs.92,241/- in the name of Sudhir Ranjan Patel. The statements of accounts from the different branches of LICs have been obtained basing on the requisitions and they have confirmed the transaction during course of investigation.

Further, the accused Patel has also got deposits with LIC of India, Kuchinda Branch vide Policy No.591374738 for Rs.65,025, Policy No.593733412 for Rs.6,004/- in the name of his wife Smt. Sandhyarani Patel and Policy No.593733408 for Rs.5,880/- in the name of Soumyamayee Patel (daughter). Besides the LIC Policies, the accused is having one SBI Life Insurance Policy No.33037740801 for Rs.49,900/- in the name of his wife Sandhya Rani Patel during. The investment and the premium paid against all the policies have been computed duly confirmed by the respective authorities and taken towards the expenditure of the accused.

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Further, investigation disclosed that the accused has invested money with Micro Finance, Burla Branch vide Folio No.5398/2007 for Rs.31,000/- and Folio No.6387/2008 for Rs.28,500/- in the name of Soumya Mayee Patel (daughter), Folio No.5399/2007 for Rs.31,000/- and Folio No.6386/2008 for Rs.28,500/- both in the name of Arup Kumar Patel (Son) as confirmed by Branch Manager, Micro Finance, Burla basing on the vigilance requisitions.

That during house search, a Maruti 800 car bearing Regd No. OR-15-C-5315 registered in the name of Sri Khirod Chandra Patel of Vill.-Kuntara, the father in-law of the accused was seized from the house of accused Sudhir Ranjan Patel at Sambalpur. Though, the vehicle and its registration certificate and other connected documents were seized from the house of accused Sudhir Ranjan Patel, no corroborative documents could be seized/ recovered to prove the benami assets of the accused during investigation. As such, the Maruti car was not accounted for towards the assets of the accused. Further, during house search an Excavator (JCB) bearing Regd. No. OR-15-N-0081 along with the purchase documents, registration certificate, documents relating to maintenance of JCB etc. were recovered/seized from the house of accused Sri Sudhir Ranjan Patel which was found purchased in the name of M/s Dash Construction, Modipada, Sambalpur. In course of examination of the driver, helper & the Engineer-in-Charge of Mehar Enterprises, they stated that the excavator belongs to Sri Sudhir Ranjan Patel, Asst. Engineer. Some receipts regarding maintenance of the vehicle including some Challans issued in favour of Sudhir Ranjan Patel signed by the accused Patel were also seized from his house during the search. Thus, from the documents and the statements, it appears that the excavator is a benami asset of the accused. The accused Patel also claimed that the JCB machine was taken from Sri Braja Kishor Das, Prop. Das construction, Modipada, Sambalpur by the accused Patel on hire basis for Rs.60,000/- per month since the day of registration of the machine at the RTO, Sambalpur. But, the accused Patel and his wife Smt. Patel failed to produce any agreement to have engaged the JCB Machine on hire basis or any receipt of acknowledgement towards the payment of hire charges of the machine in support of their claims. Further, Sri Braja Kishor Das, Prop. M/s Das Construction, Modipara Sambalpur has confirmed to have purchased the JCB Machine after obtaining the finance from L&T Finance, Sambalpur and failed to produce any agreement to have given the said JCB machine to Sri Patel, A.E. or his wife Smt. Patel on hire basis. He also failed to produce any receipt or books of accounts of his firms in support receipt of hire charges from the JCB machine from the accused Patel and his wife Smt. Patel during investigation.

Further, in order to justify the benami asset in favour of the accused Patel, A.E., verification was made at the RTO Office, Sambalpur, L&T Finance, Sambalpur and it came to light that the JCB machine was purchased on 20.02.1009 after availing finance of Rs.17,35,000/- from L&T Finance, Sambalpur in the name of M/s- Das Construction, Modipada, Sambalpur vide Agreement No.EFD016016S0900132918. The JCB machine was registered on 23.03.2009 with the RTO, Sambalpur. As on the date of house search, an amount of Rs.17,88,995/- against the loan including overdue charges of Rs.30,447/- was made towards the repayment against the loan of JCB machine with the L&T Finance Authority in shape of post paid cheques issued by M/s- Das Construction, Modipada, Sambalpur. Although, the Excavator and other connected papers/documents were seized from the exclusive possession of Sri Patel, the entire loan amount/repayment of loan so also the transport charges of Rs.40,000/-, registration fees of Rs.10,000/-, entry taxes for Rs.34,700/- and the deposit towards the insurance for Rs.26,529/- towards the excavator was made on behalf M/s Dash Construction, Modipada, Sambalpur but the same are considered insufficient to take the JCB machine as assets of the accused Sri Patel. Further, the bank accounts of accused Sri Sudhir Ranjan Patel were verified and found that during the entire period of service i.e. from 09.04.1986 to

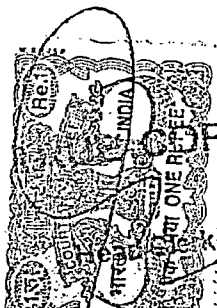
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Deptt. of Water Resources

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Sd/- Judge (Cr.)
Sambalpur
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22.04.2010 (date of house search), no substantial amount was debited either from the account of the accused S.R. Patel or Smt. Patel towards the repayment of the loan amount incurred against the JCB. As such, the loan amount and its repayments and other charges paid against the loan of JCB so also the income claimed from the utilization of JCB machine have not been calculated towards the income and expenditure side of the accused in the case. Similarly, the cost of JCB machine for Rs.17,35,000/- is also not calculated towards the assets of the accused basing on the mere statement of driver, helper, Engineer-in-charge of M/s- Meher Enterprises, Sambalpur and some documents recovered towards servicing charges of the JCB machine although Sri Pankaj Sahu confirmed his engagement as driver of the JCB by the accused Sudhir Ranjan Patel, Asst. Engineer, Nuapada Block with monthly remuneration of Rs.5,000/- per month from April - 2009 in absence of any agreement or appointment letter to that effect.

The investigation further disclosed that Sri Braja Kishor Tripathy, registered owner of the JCB machine soon after registration of the machine, it was given to Sri Sudhir Ranjan Patel, Asst. Engineer on hire basis for Rs.60,000/- per month. There was no agreement executed between Sri Patel and the M/s Das Construction, Sambalpur. The hire charges of the JCB machine have been paid in shape of cash by Sri Patel. The accused Patel and his wife also could not produced any books of accounts in support of the utilization of JCB machine during investigation.

Investigation further revealed that, besides salary income, Sri Patel had taken house building loan of Rs.9,50,000/- from Punjab National Bank, Sambalpur on 25.4.2006 for construction of building at Sambalpur and repaid Rs.8,48,456/- till the date of house search. Further, Sri Patel had taken Temporary and Part Final withdrawal for Rs.5,50,000/- on 23.09.06, Rs.3,00,000/- on 28.04.07, Rs.1,00,000/- on 17.11.07 and 1,00,000/- on 20.06.08 from GPF for construction of house at Sambalpur.

During house search the approximate cost of the movable property recovered from the house of Sri Sudhir Ranjan Patel located at Sambalpur and his Govt. Quarter located at Nuapada were calculated basing on the version of the accused and his wife.

Investigation further reveals that the accused Sudhir Ranjan Patel A.E., Nuagaon Block has amassed most of the movable and immovable assets and incurred expenditure towards education of his children, repayment of interest against the loan etc. during period from 27.08.1984 to 22.4.2010 (Date of House Search). As such the income, assets and the expenditure incurred during the entire period of his service has been considered as the check period in the case for the purpose of investigation.

The investigation reveals that both the accused Sudhir Ranjan Patel and his wife Sandhyarani Patel have been showing submission of the I.T. returns of their income with the ITO, Ward No.2(1), Sambalpur against their PAN No. PAN-AHZPP 5353R and PAN-APMPP 3183Q of Sudhir Ranjan Patel and Smt. Sandhyarani Patel respectively. The accused Sudhir Ranjan Patel has been filing the Income Tax Return with the ITO, Sambalpur in Form No-ITR-2 since 2008-09 and his wife Smt. Sandhya Rani Patel has been filing the income tax return with I.T.O. Sambalpur since 2007-08 in Form No- ITR-4. The PAN No. of Sri Sudhir Ranjan Patel is AHZPP5353R and PAN No. APMPP3183Q is of Smt. Sandhyarani Patel. Verification of Income tax return received from the office of the ITO, Sambalpur, disclosed that the accused has clearly mentioned in the return that he has not shown income from house rent and has received the nil income out of the house property. He has also mentioned the nil income from machinery, plants and building in the I.T. returns. Similarly, the I.T. returns of Smt. Patel disclosed that she has received net income of Rs.1,45,040/- during the year 2007-08 and Rs.1,47,629/- during the year 2008-09. On the basis of income tax returns, Smt.

Dept. of Revenue
Sambalpur

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Patel was examined. She stated that she has received the income from the tuitions to the school students and seasonal business, but has failed to produce any relevant documents/ registers etc. to justify or to account for her claim. Further verification was made in the locality and it was ascertained that Smt. Patel is simply a house wife and she was never doing any business or giving tuition to any students. As such, the income shown in the I.T. Returns have been filed formally to account for or counter the illegal income of Sri Patel. Hence, the income shown in the I.T Returns by Smt. Patel was not considered and has not computed towards the income of Smt. Patel while computing the income of the accused Patel in the case. Further, neither the accused Sri Patel nor his wife Smt. Patel have been showing the income of the JCB machine or house property in the income tax returns filed during the above period.

Basing on the income, expenditure and assets of the accused and his wife, following balance sheet has been prepared during investigation of the case.

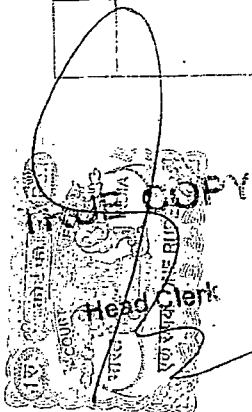
ASSETS PRIOR TO CHECK PERIOD:- NIL.

IMMOVABLE ASSETS: NIL.

MOVABLE ASSETS: NIL

INCOME

Sl. No.	Description of Income	Value of Asset
1.	Net Salary income received by accused Sri Sudhir Ranjan Patel for the period from 27.08.1984 to 22.04.2010.	Rs. 23,58,496.00
2.	GPF Part final availed by accused Sri Sudhir Ranjan Patel for construction of house at Sambalpur vide GPF Sanction Order No.6629 dt.23.9.2006 sanctioned by the S.E., Hirakud Dam Circle, Burla.	Rs. 5,50,000.00
3.	GPF Part final availed by accused Sri Sudhir Ranjan Patel for construction of house vide GPF Sanction Order No.2906 dt.28.4.2007 sanctioned by the S.E., Hirakud Dam Circle, Burla.	Rs. 3,00,000.00
4.	Temporary advance availed by accused Sri Sudhir Ranjan Patel for construction of house vide GPF Sanction Order No.8323 dt.17.11.2007 sanctioned by the S.E., Hirakud Dam Circle, Burla.	Rs. 1,00,000.00
5.	Temporary advance availed by accused Sri Sudhir Ranjan Patel for construction of house vide GPF Sanction Order No.5665 dt.20.6.2007 sanctioned by the S.E., Hirakud Dam Circle, Burla.	Rs. 1,00,000.00
6.	Interest received from the deposit made by Miss Soumyamayee Patel in Syndicate Bank, Sambalpur branch vide SB A/c No. 80602210004727.	Rs. 189.45
7.	Interest received from the deposit made by Mr. Sudhir Ranjan Patel at SBI Budharaja Branch, Sambalpur vide SB A/c No. 30190075553.	Rs. 147.00
8.	Interest received from the deposit made by Sudhir Ranjan Patel in SB A/c No. 019401506094 of ICICI Bank Ltd., Sambalpur.	Rs. 708.00
9.	Interest received from the deposit made by Sudhir Ranjan Patel till 31.3.2010 from SB A/c No. 811010100007276 of Axis Bank Nuapada Branch.	Rs. 233.00
10.	Interest received by Sudhir Ranjan Patel from the Flexi bond, IDBI Bank, SBI, Bargarh.	Rs. 1,650.00
11.	Agriculture income earned by the accused for the period from 1984-85 to 4/2010 from his share of Ac.3.68 dec. is Rs.2,15,116.92 after deducting 50% expenditure towards labour, fertilizer and pesticide etc.	Rs. 2,15,116.92
12.	Loan availed by Sri Sudhir Ranjan Patel from PNB, Sambalpur vide loan A/c No. 44200NC 000 16534.	Rs. 9,50,000.00
13.	Net income received from house rent by the accused Sudhir Ranjan Patel. A.E.	Rs. 2,32,000.00
TOTAL		Rs. 48,08,540.37 or say Rs. 48,08,540/-



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Deptt. of Water Resources

EXPENDITURE

-6(f)-

Sl. No.	Description of Expenditure	Value of Asset
1.	Premium paid in respect of SBI Life Insurance Policy No.33037740801 stands in the name of Smt. Sandhyarani Patel being date of commencement from 02.3.2010.	Rs. 49,900.00
2.	Premium paid till 22.4.2010 i.e. the date of check period in respect of Life Insurance Policy No. 591398231 stands in the name of Sri Sudhir Ranjan Patel being date of commencement 28.3.2001.	Rs. 2,51,019.00
3.	Premium paid in respect of Life Insurance Policy No. 590819980 stands in the name of Soumyamayee Patel being date of commencement 28.3.2000.	Rs. 91,619.00
4.	Premium paid till 22.4.2010 in respect of Life Insurance Policy No. 591406088 stands in the name of Sri Sudhir Ranjan Patel being date of commencement 28.3.2002.	Rs. 92,241.00
5.	Premium paid till 22.4.2010 in respect of Life Insurance Policy No. 591374738 stands in the name of Smt. Sandhyarani Patel being date of commencement 28.12.2001.	Rs. 65,025.00
6.	Premium paid till 22.4.2010 in respect of Life Insurance Policy No. 593733412 stands in the name of Smt. Sandhyarani Patel being date of commencement 28.3.2009.	Rs. 6,004.00
7.	Premium paid till 22.4.2010 in respect of Life Insurance Policy No. 593733408 stands in the name of Soumyamayee Patel being date of commencement 28.3.2009.	Rs. 5,880.00
8.	Premium paid till 22.4.2010 in respect of Life Insurance Policy No. 590819969 stands in the name of Arup Ku. Patel.	Rs. 25,587.00
9.	Premium paid by accused Sudhir Ranjan Patel in respect of Folio No.5398/07, 5399/07, 6386/08 and 6387/08 of Micro finance Ltd., Burla Branch in favour of Soumyamayee Patel, and Arup Ku. Patel respectively.	Rs. 1,19,000.00
10.	Premium paid by Sri Sudhir Ranjan Patel in respect of Janata Personal Accident Policy vide Policy No.100300/47/01/ 960022/03/96/30424 of M/s GTFS, 16 R.N. Mukherjee road, Kolkata	Rs. 2,016.00
11.	Payment of Stamp duty, Registration charges and fees against RSD No.2429 dt.8.11.2001 by Smt. Sandhya Rani Patel for registration of Plot No.232, area Ac.0.064, Khata No.211, Sambalpur town planning area Unit-15, Ainthapali	Rs. 22,135.00
12.	Payment against purchase of the Plot vide RSD No.2310 dt.29.10.2001 in respect of Plot No. 875, area Ac.0.090, Khata No.502, Sambalpur town planning area Unit-15, Ainthapali by Sudhir Ranjan Patel for consideration value of Rs.1,53,000/-.	Rs. 30,241.00
13.	Amount paid towards charges of maid servant	Rs. 30,500.00
14.	Educational expenditure towards Soumya Mayee Patel and Arup Ku. Patel received from Kendrya Vidyalaya, Sambalpur vide Letter No-15011/2010-11KV(SBP)/476 dt.13.05.2010.	Rs. 27,120.00
15.	Per capita house hold consumer expenditure of accused and his family members during the service period as per estimation made by the Dy. Director (Statistics) Vigilance Directorate Odisha, Cuttack.	Rs. 14,54,250.42
16.	Repayment made by Sri Sudhir Ranjan Patel against the loan amount of Rs.9,50,000/- availed from PNB, Sambalpur vide A/c No. 44200NC 000 16534.	Rs. 8,48,456.00
	TOTAL	Rs. 31,20,993.42 or say Rs. 31,20,993/-

ASSETS**Immovable Assets**

Sl. No	Description of property/assets	Value of the Assets.
1.	Cost of the land purchased by Smt. Sandhya Rani Patel from Himadri Behera vide Plot No.202/2725, area Ac.0.2000, Khata No.351/190, Sambalpur town planning area Unit-I, Bhatra for consideration value of Rs.80,000/- incurring Stamp duty-Rs.13,360/- and Regn. Fees-Rs.1,608/- vide RSD No.1103 dt.30.5.1995. Further the deficit stamp duty of Rs.8,350/- has been recovered from the concern party vide Misc. Receipt No.239 dt.2.7.96.	Rs. 80,000.00

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8-8-23

Section Officer**Deptt. of Water Resources**

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	Cost of the land purchased by Smt. Sandhya Rani Patel from Sri Gopal Agrawal vide Plot No.232, area Ac.0.064, Khata No.211, Sambalpur town planning area Unit-15, Ainthapali for consideration value of Rs.1,12,000/- incurring Stamp duty-Rs.19,830/- and Regn. Fees-Rs.2,305/- vide RSD No.2429 dt.8.11.2001.	Rs. 1,12,000.00
3.	Cost of the land purchased by Sri Sudhir Ranjan Patel from Sri Linson George vide Plot No.Part plot of 875, area Ac.0.090, Khata No.502, Sambalpur town planning area Unit-15, Ainthapali for consideration value of Rs.1,53,000/- incurring Stamp duty-Rs.27,100/- and Regn. Fees-Rs.3,141/- vide RSD No.2310 dt.29.10.2001.	Rs. 1,53,000.00
4.	Cost of the double storied building located at Ainthapali, Sambalpur as per the evaluation report of Vigilance Technical Wing, Cuttack is Rs.36,94,020/-. Further, it is mentioned that Rs.3,69,402/- may be deducted from the total cost towards the supervision charges if the same is self supervised by the accused. So, Rs.33,24,618/- (Rs.36,94,020 - Rs.3,69,402) has been taken as the cost of the building.	Rs. 33,24,618.00
TOTAL		Rs. 36,69,618.00

Movable Assets

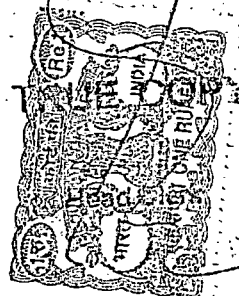
Sl No	Description of property/assets	Value of the Assets.
1.	The available credit balance of Rs.2,204.45 in SB A/c No. 30602210004127 of Syndicate Bank, Sambalpur branch in the name of Miss Soumyamayee Patel.	Rs. 2,204.45
2.	The available credit balance of Rs.57,645.50 in SB A/c No. 30190075553 of SBI, Budharaja Branch, Sambalpur in the name of Mr. Sudhir Ranjan Patel.	Rs. 57,645.50
3.	The available credit balance of Rs.16,337 in SB A/c No. 019401506094 of ICICI Bank Ltd, Sambalpur in the name of Sudhir Ranjan Patel.	Rs. 16,337.00
4.	The available credit balance of Rs.1,699/- till 31.3.2010 in SB A/c No. 811010100007276 of Axis Bank Nuapada Branch in the name of Sudhir Ranjan Patel.	Rs. 1,699.00
5.	KVPs worth Rs.61,000/- purchased by Sandhyarani Patel from Kuchinda Post Office.	Rs. 61,000.00
6.	6 nos. of Flexibond Investment each carrying face value of Rs.5000/- in the name of Sri Sudhir Ranjan Patel with the IDBI Bank through SBI, Bargarh Branch bearing SB A/c No-01190010997.	Rs. 30,000.00
7.	Cost of the Hero Honda Super Splendor bearing Regd. No.OR-15H-7336.	Rs. 40,000.00
8.	Cost of house hold articles during check period	Rs. 70,670.00
9.	Cost of electronic and electrical gadgets.	Rs. 1,35,000.00
10.	Cost of gold and silver ornaments	Rs. 51,000.00
11.	Hard Cash seized on the date of house search.	Rs. 38,260.00
TOTAL		Rs. 5,03,815.95 or say Rs. 5,03,816/-

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Deptt. of Water Resources

Thus, against the total income of Rs. 48,08,540/-, Sri Sudhir Ranjan Patel, A.E. had incurred expenditures of Rs.31,20,993/-. But, Sri Patel was found with the Assets both movable and immovable worth Rs.41,73,434/- during the entire check period. As such, the disproportionate assets comes to Rs.24,85,887/- =(Assets: Rs.41,73,434/- (+) Expenditure: Rs.31,20,993/- (-) Income: Rs.48,08,540/-) of his total income. Smt. Sandhyarani Patel, wife of the accused Sudhir Ranjan Patel has abetted the offence by acquiring the movable/immovable property in her name without any independent known source of income during the period of check. Therefore, both the accused



Sd/-
Sd/- Judge (Vigilance)
Sambalpur

GOVERNMENT OF ODISHA
DEPARTMENT OF WATER RESOURCES

42
ANNEXURE-3

NOTIFICATION

Bhubaneswar, the 30th April, 2018

No. WR-FEI-ADM-0061-2017 12/35 /WR, The following three Executive Engineers (Civil) are hereby promoted to the rank of Superintending Engineer (Civil), Lev-II on ad hoc basis for a period of one year or till receipt of the recommendation of the OPSC or till their retirement, whichever is earlier, in the scale of pay of Level-13 of Pay Matrix under ORSP Rules, 2017 with usual D.A. and other allowances as admissible from time to time with effect from the date of their joining in the said promotional post as indicated below against each.

Sl. No.	Name of the EE(C)	Present Place of Posting	Place of posting on promotion
1.	ASHOK KUMAR PATRA	EE, MEGALIFT PROJECTS, JEYPORE	SE, KBK Minor Irrigation Circle-II, Jeypore
2.	SATYANARAYAN DHAL	EE, MODEL STUDIES & RESEARCH DIVN, BURLA	SE, Sundargarh Irrigation Circle, Sundargarh
3.	ANANDA CHANDRA SINGH	EE, DESIGNS & MONITORING DIVISION, SUKINDA	Director, Allocation under CE, Water Services, Bhubaneswar

By order of Governor,

Deputy Secretary to Government

Memo No. 12/36 /WR, Date 30/4/18

Copy forwarded to the A.G. (A & E), Odisha, Bhubaneswar/ D.A.G (Works), Puri/ G.A. (S.E.) Department/ G.A. (Rent) Department/ G.A. (Vigilance) Department/ P.S. to Chief Minister, Odisha / P.S. to Minister, Water Resources, Odisha/ P.S. to Principal Secretary to Govt., DoWR/ E.I.C-cum-Special Secretary to Govt., DoWR/ Special Secretary to O.P.S.C, Cuttack/ Engineer-in-Chief, Water Resources, Odisha, Bhubaneswar/ Engineer-in-Chief, Planning & Design, Odisha, Bhubaneswar/ Director, Printing, Stationery and Publication, Odisha, Cuttack / All Chief Engineers of DoWR/ All Superintending Engineers of DoWR/ All CCEs of DoWR/ Officers concerned/ all Officers of DoWR/ Confidential Branch of DoWR/ M.I. Branch of DoWR /Guard file for information and necessary action.

The EIC, WR is requested to relieve concerned officers of their duty immediately by local arrangement to in order enable them to join in their promotional post.

Memo No. 12/77 /WR, Date 30/4/18

Copy forwarded to the Computer Programmer, Computer Cell for sending this notification to the Director, Printing, Stationery and Publication, Odisha, Cuttack through email deputydirectorpp@rediffmail.com with a request to publish the said Notification in the next issue of Odisha Gazette and furnish 5 (five) copies of the same to this Department for official use.

Deputy Secretary to Government

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8.8.23

Section Officer

Deptt. of Water Resources

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GOVERNMENT OF ODISHA
DEPARTMENT OF WATER RESOURCES

NOTIFICATION

Bhubaneswar, the 11/7 2020

No.WR-FEI-ADM-0001-2019 11964 /WR, The following Superintending Engineers (Civil), Level-I are hereby promoted to the rank of Chief Engineer (Civil) on adhoc basis for a period of one year or till receipt of the recommendation of the OPSC or till their retirement, whichever is earlier in the scale of pay of Level-16 of Pay Matrix under ORSP Rules, 2017 with usual D.A. and other allowances as admissible from time to time.

Sl. No.	Name of the SE(C), Level-I	Present Place of Posting
1.	Sri Susanta Kumar Rath	CCE, Rengali Right Irrigation Project, Dhenkanal
2.	Sri Sisir Kumar Pattnaik	SE, State Vigilance Directorate, Cuttack.
3.	Sri Ladu Kishore Sabat	SE, Southern Irrigation Circle-I, Berhampur
4.	Sri Gopal Chandra Dash	Director, Head Works under CE, Designs
5.	Sri Satya Narayan Dhal	SE, Bolangir Irrigation Circle, Bolangir
6.	Sri Sisir Kumar Satpathy	SE, Western Irrigation Circle, Bhawanipatna
7.	Sri Pravat Ranjan Rout	CCE, Lower Suktel Project, Bolangir
8.	Sri Manoj Choudhury	SE, LR & Deputation O/o the EIC, WR

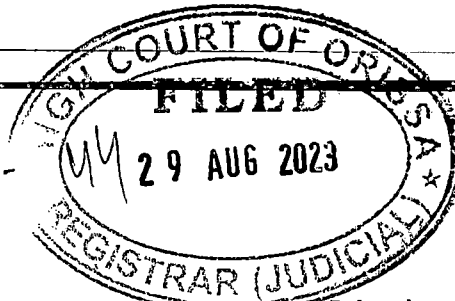
Memo No. 11965 /WR, On such promotion, Sri Susanta Kumar Rath is posted as CE, PPF & Investigation, Bhubaneswar against existing vacancy with immediate effect.

Memo No. 11966 /WR, On such promotion, Sri Sisir Kumar Pattnaik is posted as CE, Dam Safety, Bhubaneswar against existing vacancy with immediate effect.

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8.8.23
Section Officer
Dept. of Water Resources

Detd 11/7/2020



(2)

Memo No. 11967 /WR, On such promotion, Sri Ladu Kishore Sabat is posted as Chief Engineer, Quality Control & Research, Bhubaneswar against existing vacancy with immediate effect.

Memo No. 11968 /WR, On such promotion, Sri Gopal Chandra Dash is posted as Member (Tech.) Arbitration Tribunal, Bhubaneswar vice Sri Naresh Narayan Nayak, CE transferred.

Memo No. 11969 /WR, On such promotion, Sri Satya Narayan Dhal is posted as CE, Designs, Bhubaneswar vice Sri Bijay Kumar Mishra, CE transferred.

Memo No. 11970 /WR, On such promotion, Sri Sisir Kumar Satpathy is posted as CE & BM, Indrawati Kolab Basin against existing vacancy with immediate effect.

Memo No. 11971 /WR, On such promotion, Sri Pravat Ranjan Rout is posted as CE & BM, Subarnarekha & Budhabalanga Basin, Laxmiposi against existing vacancy with immediate effect.

Memo No. 11972 /WR, On such promotion, Sri Manoj Choudhury is posted as CE, Monitoring & Evaluation, Bhubaneswar after promotion of Sri D.K Samal to the rank of EIC.

Memo No. 11973 /WR, Sri Ashim Kumar Mohapatra, CE, Drainage, Cuttack is transferred and posted as MD, OCC Ltd., Bhubaneswar vice Addl. Charge of Saroj Kumar Pattnaik.

Memo No. 11974 /WR, Sri Naresh Narayan Nayak, Member (Tech.) Arbitration Tribunal, Bhubaneswar is transferred and posted as CE & BM, Brahmani Basin, Samal against existing vacancy with immediate effect.

Memo No. 11975 /WR, Sri Bijaya Kumar Mishra, CE, Designs, Bhubaneswar is transferred and posted as CE & BM, RVN Basin, Berhampur against existing vacancy with immediate effect.

Memo No. 11976 /WR, Sri Bikram Keshari Swain, CE-cum-PD, PMU, OIIAWMIP, Bhubaneswar is transferred and posted as CE, Drainage, Cuttack with Addl. Charge of Director Tech., OLIC, Bhubaneswar.

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8-8-23
Section Officer
Deptt. of Water Resources

By order of Governor,

11/7/2020
Special Secretary to Government

45
Memo No. 11977 /WR,

Date 11/7/2020

Copy forwarded to A.G. (A & E), Odisha, Bhubaneswar / D.A.G (Works), Puri / G.A.(S.E.) Department / G.A. (Rent) Department / G.A.(Vigilance) Department / Works Department / H & UD, Department / P.S. to Hon'ble Chief Minister, Odisha / P.S. to Hon'ble Minister Water Resources, Odisha / Director, Printing, Stationery and Publication, Odisha, Cuttack / Pr.P.S. to Principal Secretary to Govt., DoWR / P.S. to Special Secretary to Govt., DoWR / P.S to E.I.C-cum-Special Secretary to Govt., DoWR / Special Secretary to O.P.S.C, Cuttack / Engineer-in-Chief, Water Resources, Odisha, Bhubaneswar / Engineer-in-Chief, Planning & Design, Odisha, Bhubaneswar /MD, OCC Ltd., Bhubaneswar /All Chief Engineers of DoWR / All Superintending Engineers of DoWR / Member (Tech.), Arbitration Tribunal, Bhubaneswar / SE, State Vigilance Directorate, Cuttack / All CCEs of DoWR / Officers concerned / Sri Saroj Kumar Pattnaik, CE, M.I, Odisha, Bhubaneswar/ Confidential Branch of DoWR / O.E.-I Branch of DoWR / FE-II Branch of DoWR / M.I Branch of DoWR / 05 (five) copies to Guard file for information and necessary action.

Memo No. 11978 /WR,

Date 11/7/2020

Copy forwarded to the Computer Programmer, Computer Cell, DoWR for sending this notification to the Director, Printing, Stationery and Publication, Odisha, Cuttack through email deputydirectorpp@rediffmail.com for publication of this Notification in the next issue of the Odisha Gazette.

Special Secretary to Government

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8-8-23

Section Officer
Dept. of Water Resources

No.GAD-SC-GCS-0035-2020-15643/Gen.

GOVERNMENT OF ODISHA
GENERAL ADMINISTRATION AND PUBLIC GRIEVANCE DEPARTMENT

OFFICE MEMORANDUM

Bhubaneswar, dated the 17th June, 2021

Subject: Promotion of Government servants against whom Disciplinary Proceedings are pending procedure to be followed.

The Procedure to be adopted by the Departmental Promotion Committee while selecting employees for promotion to the next higher grade when any Disciplinary Proceeding is pending has been prescribed in G.A. & P.G. Department Office Memorandum No.3928/Gen., dated 18.02.1994 r/w Office Memorandum No.29699/Gen., dated 01.11.1997. Besides, in order to ensure expeditious disposal of proceedings to facilitate timely promotion of Government Servants, a quarterly review of the Disciplinary Proceeding has been prescribed in G.A. & P.G. Department Office Memorandum No.9162/Gen., dated 29.04.2017.

Instances have come to the notice of the Government that in spite of the afore-stated instructions, the Disciplinary Proceedings against the Government Servants are pending for long period, which unfairly results in depriving Government Servants of getting promotions.

2. After careful consideration of the above aspects, it has been decided by the Government to prescribe the following principles for consideration of *ad hoc* promotion of Government employees against whom Disciplinary Proceedings are pending for more than two years:-

- (i) In cases where Disciplinary Proceedings are pending u/r - 15 of O.C.S. (CC&A) Rules, 1962, the sealed cover procedure as envisaged in G.A. & P.G. Department Office Memorandum No. 3928/Gen., dated the 18th February 1994 should be adopted.
- (ii) In cases where Disciplinary Proceedings against the delinquent Government employees have not come to an end even after the expiry of two years from the

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8.8.23

Section Officer
Deptt. of Water Resources

date of the meeting of the Departmental Promotion Committee in which the sealed cover procedure in his/her respect was adopted, the Appointing Authority may review the promotion cases subsequently (provided the delinquent Government employee is not under suspension) to consider the desirability of allowing *ad hoc* promotion, if the delinquent officer has not defaulted in expeditious disposal of Disciplinary Proceedings keeping in view the following aspects :

- (a) Whether the promotion of the employee will be against the public interest;
- (b) Whether the charges are grave enough to warrant continued denial of promotion;
- (c) Whether there is likelihood of the case coming to a conclusion in the near future;
- (d) Whether the delay in the finalization of the proceedings is not directly or indirectly attributable to the employee concerned;
- (e) Whether there is any likelihood of misuse of the Official position that the employee may occupy after *ad hoc* promotion, which may adversely affect the conduct of the departmental case.

3. In case the Appointing Authority considers that it would not be against the public interest to allow *ad hoc* promotion to the employee concerned, his/her case should be placed before the next Departmental Promotion Committee to be held in the normal course to decide whether the employee is suitable for promotion on *ad hoc* basis. If the employee is considered suitable, on the basis of the totality of his/her record of service, without taking into account the pending disciplinary case against him/her, an order of *ad hoc* promotion may be issued in his/her favour from the due date of his/her promotion on notional basis and financial benefits from the actual date of joining against promotional post.

In case the Disciplinary Proceeding continues till the regular promotion of his/her earlier junior officer to the subsequent promotional rank, the officer concerned shall be considered for further *ad hoc* promotion on the basis of totality of his/her record of service without taking into account the pending Disciplinary Proceeding against him.

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[Signature]

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Dept. of Water Resources

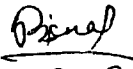
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The order of *ad hoc* promotion shall make it clear that:-

- (I) the *ad hoc* promotion is being made purely on *ad hoc* basis to ensure that the Officer concerned does not suffer due to lingering Disciplinary Proceeding and thus the *ad hoc* promotion will not confer any right for regular promotion; and
- (II) in the event the employee were to be denied promotion consequent upon the decision of the Government on the pending disciplinary proceeding then the case of the employee would be decided as per the decision on the Disciplinary Proceeding and extant Government rules
- (III) the Government reserves the right to cancel the *ad hoc* promotion at any time and revert the employee to the post from which he/she was promoted without assigning any reason there for
- (IV) the name of the officer promoted on *ad hoc* basis shall not be placed in the gradation list which is meant for the regular employees.
- (V) an employee after his/her *ad hoc* promotion, if awarded with major punishment, shall be reverted to the post from which he/she was promoted on *ad hoc* basis and his/her case shall be considered for promotion afresh on regular basis as per the stipulations prescribed at paragraph 7 of GA & PG Department OM No.3928 dt.18.02.0994 read with OM No.29699, dated 01.11.1997 and he/she shall not be entitled for any service/incremental benefit on the basis of the service rendered during the period of his/her *ad hoc* promotion.

This Department Office Memorandum No. 9162/Gen., dated 29.04.2017 stands modified to the above effect. All other conditions contained in the aforesaid Office Memorandum remain unchanged.

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8.8.23
Section Officer
Dept. of Water Resources

By order of Governor


Additional Chief Secretary to Government



49
Memo No. 15644 /Gen.,

Dated the 17th June, 2021

Copy forwarded to the Odisha Gazette Cell in-charge, Odisha Gazette Cell, C/o. Commerce Department for information with request to publish the Office Memorandum in the extraordinary issue of the Odisha Gazette and supply 200 copies of the same to this Department for official use.

G. Patra
17.6.2021

Additional Secretary to Government

Memo No. 15645 /Gen.,

Dated the 17th June, 2021

Copy forwarded to all Departments of Government/ all Heads of Departments/ all Collectors/ Registrar, Odisha High Court/ Special Secretary, Odisha Public Service Commission, Cuttack/ Secretary, Odisha Staff Selection Commission, Bhubaneswar/Secretary, Odisha Sub-ordinate Staff Selection Commission, Bhubaneswar for information and necessary action.

The Director, Odisha Bhasa Pratisthan, Sanskruti Bhawan, State Museum Campus, Bhubaneswar-14 is requested to take action w.r.t. this Department Memo No. 30208/Gen., dated 24.10.2019.

G. Patra
17.6.2021

Additional Secretary to Government

Memo No. 15646 /Gen.,

Dated the 17th June, 2021

Copy forwarded to all Branches of G.A. & P.G. Department / Guard file (10 copies)/ G.A. & P.G. Department Library (10 copies) for information and necessary action.

G. Patra
17.6.2021

Additional Secretary to Government

Memo No. 15647 /Gen.,

Dated the 17th June, 2021

Copy forwarded to the G.A. & P.G. (A.R. Cell) Department with a request to post this Office Memorandum in the website of G.A. & P.G. Department for general information.

G. Patra
17.6.2021

Additional Secretary to Government

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8.8.23

Section Officer
Deptt. of Water Resources

[Signature]
[Signature]

To,

The Principal Secretary, Water Resources Department,
Rajiv Bhawan, Bhubaneswar.

Sub:- Regarding promotion.

Sir,

I, Sri Sudhir Ranjan Patel, Executive Engineer Megalic Project Sundargarh beg to submit herewith that I have been continuing in the same cadre for last seven years but my juniors have got further promotions. I am deprived of my legitimate promotion to the post of Superintending Engineer and Chief Engineer on the pendency of a vigilance case, as the departmental proceeding arising out the said criminal charges has already been declared none existent for the purpose of adhoc promotion in GA Deptt. circular dtd:17.06.2021.

As a matter of fact the Hon'ble Court in the case of Pratyush Kumar Mohanty vrs State of Odisha and others i(WP@No.1617624 of 2021 disposed of on 07.07.2021) has settled the law that pendency of vigilance case for decades cannot be a ground to deny promotion to an employee. The vigilance case is pending against me for more than 10 years and no development further because of the latches of the prosecution. But because of this criminal proceeding and departmental proceeding on the selfsame charge, I am debar of my legitimate promotion The State Govt. has also issued a circular on 17.06.2021 to give adhoc promotion to the employees against whom DP is pending.

In the circumstances I pray with folded hand to consider my claim lawfully and allow me promotion to the higher rank from the date my immediate junior got such promotion and oblige.

Dtd: 30.07.2021

Yours faithfully;

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**Section Officer
Deptt. of Water Resources**

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(Sudhir Ranjan Patel)

Received
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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 31328 of 2021

Sudhir Ranjan Patel

.....

Petitioner

Mr. S.K. Das, Advocate

-Versus-

Sate of Odisha & Anr.

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

07.10.2021

Order No.
01

This matter is taken up through video conferencing.

2. Heard learned counsel for the parties.

3. The petitioner has filed this application seeking direction to the opposite parties to give him promotion to the post of Superintending Engineer from 30.04.2018 and Chief Engineer from 01.07.2020, i.e. the date from which his immediate juniors got such promotions, and to grant all consequential service and financial benefits including further promotion within a stipulated time.

4. Moot question involves if a promotion of employee can be withheld for indefinite period on the premises of pendency of vigilance proceeding over a period of decades.

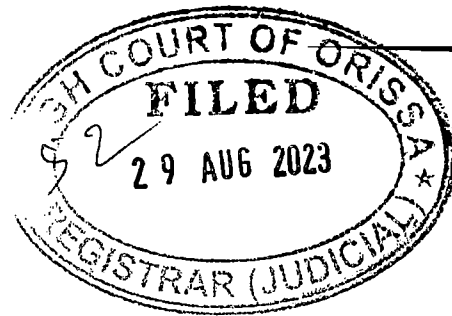
5. This Court considering such situation has already settled the position of law keeping the sealed cover promotion aspect in view of pendency of the Disciplinary Proceeding and/or Vigilance Proceeding for decades becomes bad.

6. Fact involving the case reveals that there is a disciplinary proceeding pending against the petitioner besides the vigilance proceeding pending in the court of Special Judge, Vigilance, Sambalpur in C.T.R. Case No. 09 of 2015 arising out of Sambalpur Vigilance P.S. Case No. 88 of 2010. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2010, but charge-sheet involving the Vigilance case was submitted in the year 2015. However the said vigilance case is yet to be disposed of. Pleading also

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Dept. of Water Resources

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further made clear that Disciplinary Proceeding initiated against the petitioner in the year 2016 is of no consequence because of Govt. Circular dated 17.06.2021 (Annexure-5). In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2018 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2010. For the settled position of law, this Court in disposal of the writ petition observes, petitioner cannot suffer for the long pendency of the vigilance proceeding. It is also not known when the Vigilance Proceeding initiated in the year 2010 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Principal Secretary to Govt. of Odisha, Water Resources Department, Bhubaneswar-O.P. No.1 to give promotion to the petitioner to the rank of Superintending Engineer (Civil) from 30.04.2018 and Chief Engineer from 01.07.2020, i.e., the date of his juniors and batchmates got such promotions. However the promotions of the petitioner as per direction of this Court shall be subject to the ultimate outcome in the Vigilance Proceeding. Further it is also clarified that the promotion given to the petitioner to different ranks shall not confer equity in the event, he will ultimately lose the Vigilance Proceeding. Entire exercise shall be completed within four weeks from the date of communication of this direction. It is also clarified that upon promotion, petitioner shall also be entitled to all consequential benefits.

7. Writ the above observation, the writ petition thus stands disposed of

Issue urgent certified copy as per rules.

Alok

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Signature
5.8.23

Section Officer
Deptt. of Water Resources

(DR. B.R. SARANGI)
JUDGE

(C) SEALED COVER PROCEDURE
GENERAL ADMINISTRATION DEPARTMENT
OFFICE MEMORANDUM

The 18th February 1994

Subject:- Promotion of Government servants against whom disciplinary/criminal proceedings are pending procedure to be followed.

No. 3928-SC/3-2/93-Gen. - The question of the manner and method to be adopted by the Departmental Promotion Committee while selecting employees for promotion to the next higher grade in the context of an employee who is under suspension has been prescribed in this Department office Memorandum NO. 24—Gen., dated the 9th January 1987. This matter has been further considered by the Government and in supersession of this Department Office Memorandum referred to above, it has been decided as follows :-

2. Confirmation in the service

The State Government employees appointed in different cadres of service through relevant source of recruitment shall be confirmed in the service at the end of the period of probation subject to fulfillment of other conditions as prescribed for the purpose. A probationer who is under suspension or against whom disciplinary proceedings have been instituted or against whom a criminal case is pending in a Court, cannot be considered to have completed the period of probation to the satisfaction of State Government and as such, he cannot be confirmed in service before such proceedings are dropped or concluded in his favour.

3. Promotion of officers to the various posts/services

At the time of consideration of cases of officers for promotion, details of such officers in the zone of consideration falling under the following categories should be specifically brought to the notice of the concerned Screening Committee :-

- (i) Government servants under suspension
- (ii) Government servants in respect of whom a charge-sheet has been issued and disciplinary proceeding are pending; and
- (iii) Government servants in respect of whom prosecution for criminal charge is pending.

4. The Screening Committee shall assess the suitability of the officers coming within the purview of the circumstances mentioned in Para. 2 above, along with other eligible candidates without taking into consideration the disciplinary case/criminal prosecution which is pending. The assessment of the Screening Committee including "Unfit for Promotion" and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed "FINDINGS REGARDING THE SUITABILITY FOR PROMOTION TO THE POST/SERVICE OF IN RESPECT OF SHRI (Name of the Officer)". "NOT TO BE OPENED TILL THE TERMINATION OF THE DISCIPLINARY CASE/CRIMINAL PROSECUTION AGAINST SHRI The proceedings of the Screening Committee need only contain the note. "The findings are contained in the attached sealed cover".

5. The same procedure outlined in Para. 3 above will be adopted by the subsequent Screening Committee convened till the disciplinary case/criminal prosecution against the officer concerned is concluded.

6. On the conclusion of the disciplinary case/criminal prosecution, the sealed cover or covers shall be opened. In case the officer is completely exonerated, the due date of his promotion will be determined with reference to the findings of the Screening committee kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such findings. The Government servant may be promoted, if necessary, by reverting the junior-most officiating person. He may be promoted notionally with reference to the date of promotion of his junior.

In cases of complete exoneration, the officer will also be paid arrears of salaries and allowances. In other cases, the question of arrears will be decided by the State Government by taking into consideration all the facts and circumstances of the disciplinary/criminal proceedings, but where the Government denies arrears of salary or a part of it, the reasons for doing so shall be recorded.

7. If any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next Screening Committee in the normal course and having regard to the penalty imposed on him.

8. It is necessary to ensure that the disciplinary case/criminal prosecution instituted against any officer is not unduly prolonged and all efforts to finalise expeditiously the proceeding should be taken so that the need for keeping the cases of officers in a sealed cover is limited to the barest minimum. It has, therefore, been decided that the appointing authorities concerned should review comprehensively the cases of Government servants, whose suitability

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Dept. of Water Resources
8.3.23

For promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of convening the first Screening Committee which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also every six months. The review should, *inter alia*, cover the progress made in the disciplinary proceedings/criminal prosecution and further measures to be taken to expedite their completion.

9. An officer who is recommended for promotion by the Screening committee but in whose case any of the circumstances mentioned in Para. 3 above arise after the recommendations of the Screening Committee are received before he is actually promoted, will be considered as if his cases had been placed in a sealed cover by the Screening Committee. All the subsequent Committees shall assess the suitability of such officers along with other eligible candidates and place their assessment in a sealed cover. The sealed cover(s) will be opened on conclusion of the disciplinary case/criminal prosecution. In case the officer is completely exonerated, he would be promoted as per the procedure outlined in Para. 6 above and the question of grant of arrears would also be decided accordingly. If any penalty is imposed upon him as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover in his case shall not be acted upon.

PRITIMAN SARKAR
Special Secretary to Government

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Prisual
8.8.23

Section Officer
Dept. of Water Resources

- 55

GENERAL ADMINISTRATION DEPARTMENT
OFFICE MEMORANDUM

The 1st November 1997

Subject- Promotion of Government servants against whom disciplinary/criminal proceedings are pending –procedure to be followed.

No. 29699-SC-3-5/97-Gen.- The procedure to be adopted by the Departmental Promotion Committee while selecting employees for promotion to the next higher grade when any disciplinary/criminal proceedings are pending has been laid down in General Administration Department Office Memorandum No. 3928-Gen., dated the 18th February 1994 and Office Memorandum No. 14640-Gen., dated the 4th July 1995. It has come to the notice of the Government that the Government servants who have been punished with any of the minor penalties as specified in Clauses (i) to (v) of Rule 13 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 in the disciplinary proceedings drawn up against them under Rule 15 of the above said Rules for imposing major penalties are deprived of getting promotion to higher grades which caused undue hardship to them.

2. The Government after careful consideration of all the aspects have now been pleased to decide to substitute Para 6 and 7 of G.A Department Office Memorandum No. 3928-Gen., dated the 18th February 1994 referred to above as follows.

Para 6- On the conclusion of the disciplinary cases/criminal prosecution, the sealed cover or covers shall be opened. In case the officer is completely exonerated, the due date of his promotion will be determined with reference to the findings of the Screening Committee kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such findings. The Government Servant may be promoted, if necessary by reverting the junior-most employee who has been allowed officiating promotion. He may be promoted notionally with reference to the date of promotion of his junior.

Para 6.2- In case of complete exoneration, the officer will also be paid arrears of Salaries and Allowances. In other cases, the question of arrears will be decided by the State Government by taking into consideration all the facts and Circumstances of the disciplinary/criminal proceeding, but where the Government denies arrear salary or part of it, the reasons for doing so be recorded.

Para 6.3- In cases where, after completion of the disciplinary proceedings an officer has been punished with the following minor penalties, he shall be given promotion considering the findings in the 'sealed cover' from the date his immediate junior has been given promotion and his pay will be notionally fixed in the timescale of the higher grade with effect from that date, but he will not be eligible for any arrear financial benefits for the period for which he has not actually worked in the higher grade post.

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8.8.23
Section Officer
Deptt. of Water Resources

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2. Censure
3. Withholding of increments
4. Recovery of any pecuniary loss caused

However, in cases where an officer has been punished with minor punishment of "Suspension" then the officer cannot get promotion with retrospective effect. In such cases, the date of promotion of the officer concerned will be postponed by the period for which he was actually under suspension. That means he will be promoted from the date on which his period of suspension will be over.

Similarly in cases where the punishment of 'withholding of promotion' has been imposed on the officer concerned, then the officer concerned cannot be promoted with retrospective effect even if he was found suitable for promotion as per recommendation kept in sealed cover and his cases will be taken up in the next Departmental Promotion Committee/Selection Board/Selection Committee for consideration of his promotion to next higher grade.

Para 7- If any major penalty as specified in Clauses (vi) to (ix) of Orissa Civil Services (Classification, control and Appeal) Rules, 1962 is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next Departmental Promotion Committee/Selection Board/Selection Committee in the normal course and having regard to the penalty imposed on him.

3. This has been concurred in by the Finance Department in their U. O. R. No. 508-CS-I. dated the 16th September 1997.

H. S. CHAHAR
Special Secretary to Government

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8.8.23

**Section Officer
Deptt. of Water Resources**

- 54 - 97

Government of Odisha
General Administration Department

OFFICE MEMORANDUM

No. GAD-SC-DMS-0001-2017- 9162 1Gen. Dated 29th April, 2017

Subject: - Periodic review of disciplinary/criminal proceedings instituted against the Government Servants.

In order to avoid delay of promotion of Government Servants involved in disciplinary/criminal proceedings for a pretty long time, a set of procedures was prescribed in G.A. Department Office Memorandum No.14640 dated 04.07.1995 to consider the feasibility of allowing ad-hoc promotion, if tenable in the public interest.

It has come to the notice of the Government that on account of these provisions the disciplinary proceedings in most of the cases are not being attended to sincerely for its early disposal and the above provisions are being resorted to as a routine matter which are contrary to the public interest. Such a situation always puts the Government in embarrassing position.

Government, after careful consideration of the above aspect, have been pleased to withdraw this Department Office Memorandum No.14640 dated 04.07.1995 with the direction that henceforward all the disciplinary proceedings / criminal cases pending against Government servants shall be reviewed quarterly by the Committees prescribed below so as to ensure that such cases do not linger indefinitely.

The Administrative Department concerned shall take immediate action as per the findings and decision of the Committee to expedite the pending disciplinary proceedings and criminal cases.

Review Committees for :-

(a) all Group-A Officers in Pay Band-4 or equivalent rank.

i	Development Commissioner	Chairman
ii	Special Secretary, G.A. Department.	Member
iii	Secretary of the Administrative Department	Member convener

(b) Group-A Officers in Pay Band-3 or equivalent rank.

i	Secretary of the Administrative Department concerned.	Chairman
ii	Special Secretary/ Representative of G.A. Department.	Member
iii	Senior most Officer of the Administrative Department concerned/Heads of the Department concerned.	Member convener

(c) All Group-B officers-

i	Secretary of the Administrative Department concerned.	Chairman
ii	Heads of the Department/ Head of Office concerned.	Member
iii	Special Secretary/Addl. Secretary/ Joint Secretary of the Administrative Department.	Member convener

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8.8.23
Section Officer
Dept. of Water Resources

- 58

(d) All Group-C employees-

i	Secretary of the Administrative Department /Heads of the Department/Head of Office concerned (as the case may be).	Chairman
ii	Any other two senior Officers of the Department/ Heads of the Department / Head of Office concerned (as the case may be).	Member/ member convener

(e) All Group-D employees-

i	Appointing Authority concerned	Chairman
ii	Any other two senior Officers of the Department/ Heads of the Department / Head of Office concerned (as the case may be).	Member/ member convener

It is accordingly requested that the above instructions are followed strictly.

This order shall be effective from the date of issue.

[Signature]
29/4/17
Special Secretary to Government

Memo No. 9163 / Gen., Dated. 29/04/2017

Copy forwarded to all Departments of Government/ all Heads of Departments/ all Collectors for information and necessary action.

It is requested to issue instructions to all sub-ordinate Offices functioning under their administrative control accordingly.

[Signature]
29-4-17
Additional Secretary to Government

Memo No. 9164 / Gen., Dated. 29/04/2017

Copy forwarded to all Branches of G.A. Department / Guard file (10 copies)/ G.A. Department Library (10 copies) for information and necessary action.

[Signature]
29-4-17
Additional Secretary to Government

Memo No. 9165 / Gen., Dated. 29/04/2017

Copy forwarded to the Head of Portal Group, I.T Centre, Secretariat with a request to post this Office Memorandum in the website of G.A. Department for general information.

[Signature]
29-4-17
Additional Secretary to Government

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[Signature]

8.8.23

**Section Officer
Deptt. of Water Resources**

- 6 - 59

No.GAD-SC-GCS-0035-2020-15643 /Gen.

GOVERNMENT OF ODISHA
GENERAL ADMINISTRATION AND PUBLIC GRIEVANCE DEPARTMENT

OFFICE MEMORANDUM

Bhubaneswar, dated the 17th June, 2021

Subject: Promotion of Government servants against whom Disciplinary Proceedings are pending procedure to be followed.

The Procedure to be adopted by the Departmental Promotion Committee while selecting employees for promotion to the next higher grade when any Disciplinary Proceeding is pending has been prescribed in G.A. & P.G. Department Office Memorandum No.3928/Gen., dated 18.02.1994 r/w Office Memorandum No.29699/Gen., dated 01.11.1997. Besides, in order to ensure expeditious disposal of proceedings to facilitate timely promotion of Government Servants, a quarterly review of the Disciplinary Proceeding has been prescribed in G.A. & P.G. Department Office Memorandum No.9162/Gen., dated 29.04.2017.

Instances have come to the notice of the Government that in spite of the afore-stated instructions, the Disciplinary Proceedings against the Government Servants are pending for long period, which unfairly results in depriving Government Servants of getting promotions.

2. After careful consideration of the above aspects, it has been decided by the Government to prescribe the following principles for consideration of *ad hoc* promotion of Government employees against whom Disciplinary Proceedings are pending for more than two years:-

- (i) In cases where Disciplinary Proceedings are pending u/r - 15 of O.C.S. (CC&A) Rules, 1962, the sealed cover procedure as envisaged in G.A. & P.G. Department Office Memorandum No. 3928/Gen., dated the 18th February 1994 should be adopted.
- (ii) In cases where Disciplinary Proceedings against the delinquent Government employees have not come to an end even after the expiry of two years from the

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Bisual
5.8.23
Section Officer
Deptt. of Water Resources

date of the meeting of the Departmental Promotion Committee in which the sealed cover procedure in his/her respect was adopted, the Appointing Authority may review the promotion cases subsequently (provided the delinquent Government employee is not under suspension) to consider the desirability of allowing *ad hoc* promotion, if the delinquent officer has not defaulted in expeditious disposal of Disciplinary Proceedings keeping in view the following aspects :

- (a) Whether the promotion of the employee will be against the public interest;
- (b) Whether the charges are grave enough to warrant continued denial of promotion;
- (c) Whether there is likelihood of the case coming to a conclusion in the near future;
- (d) Whether the delay in the finalization of the proceedings is not directly or indirectly attributable to the employee concerned;
- (e) Whether there is any likelihood of misuse of the Official position that the employee may occupy after *ad hoc* promotion, which may adversely affect the conduct of the departmental case.

3. In case the Appointing Authority considers that it would not be against the public interest to allow *ad hoc* promotion to the employee concerned, his/her case should be placed before the next Departmental Promotion Committee to be held in the normal course to decide whether the employee is suitable for promotion on *ad hoc* basis. If the employee is considered suitable, on the basis of the totality of his/her record of service, without taking into account the pending disciplinary case against him/her, an order of *ad hoc* promotion may be issued in his/her favour from the due date of his/her promotion on notional basis and financial benefits from the actual date of joining against promotional post.

In case the Disciplinary Proceeding continues till the regular promotion of his/her earlier junior officer to the subsequent promotional rank, the officer concerned shall be considered for further *ad hoc* promotion on the basis of totality of his/her record of service without taking into account the pending Disciplinary Proceeding against him.

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Visual
5.8.23
Section Officer
Deptt. of Water Resources

3-6-61

The order of *ad hoc* promotion shall make it clear that:-


- (I) the *ad hoc* promotion is being made purely on *ad hoc* basis to ensure that the Officer concerned does not suffer due to lingering Disciplinary Proceeding and thus the *ad hoc* promotion will not confer any right for regular promotion; and
- (II) in the event the employee were to be denied promotion consequent upon the decision of the Government on the pending disciplinary proceeding then the case of the employee would be decided as per the decision on the Disciplinary Proceeding and extant Government rules
- (III) the Government reserves the right to cancel the *ad hoc* promotion at any time and revert the employee to the post from which he/she was promoted without assigning any reason there for
- (IV) the name of the officer promoted on *ad hoc* basis shall not be placed in the gradation list which is meant for the regular employees.
- (V) an employee after his/her *ad hoc* promotion, if awarded with major punishment, shall be reverted to the post from which he/she was promoted on *ad hoc* basis and his/her case shall be considered for promotion afresh on regular basis as per the stipulations prescribed at paragraph 7 of GA & PG Department OM No.3928 dt.18.02.0994 read with OM No.29699, dated 01.11.1997 and he/she shall not be entitled for any service/incremental benefit on the basis of the service rendered during the period of his/her *ad hoc* promotion.

This Department Office Memorandum No. 9162/Gen., dated 29.04.2017 stands modified to the above effect. All other conditions contained in the aforesaid Office Memorandum remain unchanged.

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Biswajit
S.B.23
Section Officer
Deptt. of Water Resources

By order of Governor



Additional Chief Secretary to Government

- 62 -

Memo No. 15644 /Gen.,

Dated the 17th June, 2021

Copy forwarded to the Odisha Gazette Cell in-charge, Odisha Gazette Cell, C/o. Commerce Department for information with request to publish the Office Memorandum in the extraordinary issue of the Odisha Gazette and supply 200 copies of the same to this Department for official use.

G. Patra
17.6.2021

Additional Secretary to Government

Memo No. 15645 /Gen.,

Dated the 17th June, 2021

Copy forwarded to all Departments of Government/ all Heads of Departments/ all Collectors/ Registrar, Odisha High Court/ Special Secretary, Odisha Public Service Commission, Cuttack/ Secretary, Odisha Staff Selection Commission, Bhubaneswar/Secretary, Odisha Sub-ordinate Staff Selection Commission, Bhubaneswar for information and necessary action.

The Director, Odisha Bhasa Pratisthan, Sanskruti Bhawan, State Museum Campus, Bhubaneswar-14 is requested to take action w.r.t. this Department Memo No. 30208/Gen., dated 24.10.2019.

G. Patra
17.6.2021

Additional Secretary to Government

Memo No. 15646 /Gen.,

Dated the 17th June, 2021

Copy forwarded to all Branches of G.A. & P.G. Department / Guard file (10 copies)/ G.A. & P.G. Department Library (10 copies) for information and necessary action.

G. Patra
17.6.2021

Additional Secretary to Government

Memo No. 15647 /Gen.,

Dated the 17th June, 2021

Copy forwarded to the G.A. & P.G. (A.R. Cell) Department with a request to post this Office Memorandum in the website of G.A. & P.G. Department for general information.

G. Patra
17.6.2021

Additional Secretary to Government

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G. S. S. S.
5.8.21
Section Officer
Deptt. of Water Resources

SCANNED

COMPUTERISED FILING COUNTER
ORISSA HIGH COURT,CUTTACK
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Case No : WA/2191/2023

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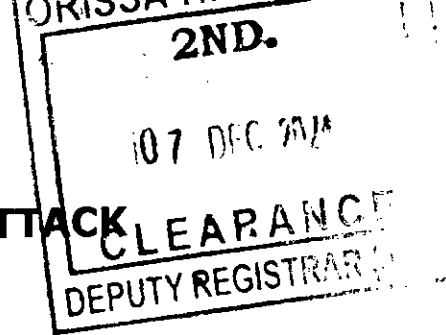
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1- Certified Copy (XEROX COPY) --- Court Fee -Rs.3 (36300/2024)

IN THE HIGH COURT OF ORISSA: CUTTACK

W.A. No. 2191 of 2023



State of Odisha & Ors

... ..

Appellants

-Versus-

Sudhir Ranjan Patel

... ..

Respondents

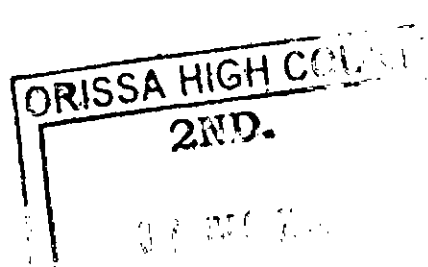
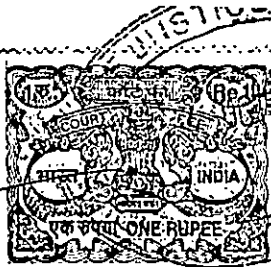
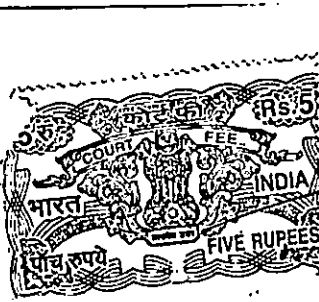
MEMO

Certified Copy of the order dtd.**07.10.2021** arising out of **W.P.(C) Case No. 31328 of 2021** with authentication fees of Rs. 3.00 (Rupees three) Only is filed herewith in the aforesaid appeal.

Cuttack

Date- 07.12.2024


Addl. Standing Counsel
For the Appellant



SAMEER KUMAR DAS
Enrollment No. O-635/92
Ph. No. 9437172660

IN THE HIGH COURT OF ORISSA, CUTTACK

(Original jurisdiction case)

W.P. (C) No. 31328 of 2021

(Code No. 310799)

In the matter of:

An application under Article 226 and 227 of the Constitution
of India.

Presented in Court

And

In the matter of:

An application for a direction to the Opposite Parties to
promote the petitioner to the post of Superintending Engineer
and Chief Engineer from the date his immediate juniors have
got such promotions and to grant all consequential service
and financial benefits.

And

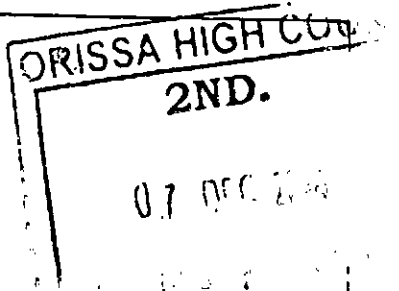
In the matter of:

Sudhir Ranjan Patel, aged about 59 years, Son of Ramesh
Chadra Patel, Subhashree Bihar, Ainthapalli, Sambalpur, at

Signature valid

Digitally Signed
Signed by: BIRAJA MALLIK
Designation: ASSISTANT SECTION OFFICER
Reason: VERIFIED
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 05-Dec-2024 16:56:04

Surenara Prasad Dhal
Advocate
NOTARY, CUTTACK



present working as Executive Engineer in Megalix Project,
At/PO/Dist-Sundargarh.

.... Petitioner.

-Versus-

1. State of Odisha, represented through its Principal Secretary in
Water Resources Department, Rajiv Bhawan, Bhubaneswar,
District- Khurda.
2. Special Secretary to Govt. General Administration and Public
Grievances, Govt. of Odisha, Lokaseva Bhawan,
Bhubaneswar.

.... Opposite parties.

The matter out of which this writ petition arises was never
before this Hon'ble Court in its present form.

To

The Hon'ble Chief Justice of Orissa High Court and His
Lordships Companion Justices of the said Hon'ble Court.

The humble petition of the
Petitioner above named;

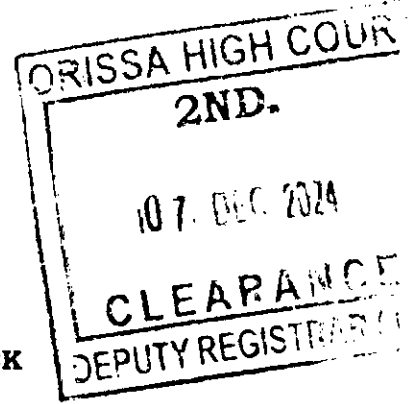
MOST RESPECTFULLY SHEWETH:


Signature valid

Digitally Signed
Signed by: BIRAJA MALLIK
Designation: ASSISTANT SECTION OFFICER
Reason: VERIFIED
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 05-Dec-2024 18:58:04

Surendra Prasad Dha
Advocate
NOTARY, CUTTACK

11-10



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 31328 of 2021

Sudhir Ranjan Patel

.....

Petitioner

Mr. S.K. Das, Advocate

-Versus-

Sate of Odisha & Anr.

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

07.10.2021

Order No.
01

This matter is taken up through video conferencing.

2. Heard learned counsel for the parties.

3. The petitioner has filed this application seeking direction to the opposite parties to give him promotion to the post of Superintending Engineer from 30.04.2018 and Chief Engineer from 01.07.2020, i.e. the date from which his immediate seniors got such promotions, and to grant all consequential service and financial benefits including further promotion within a stipulated time.

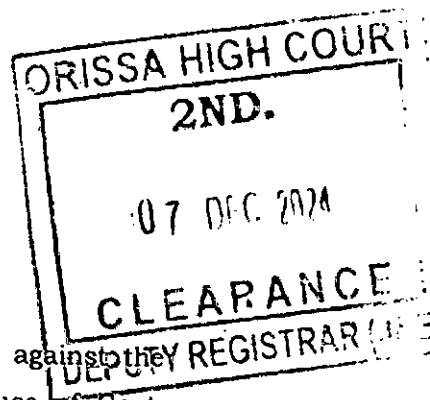
4. Moot question involves if a promotion of employee can be withheld for indefinite period on the premises of pendency of vigilance proceeding over a period of decades.

5. This Court considering such situation has already settled the position of law keeping the sealed cover promotion aspect in view of pendency of the Disciplinary Proceeding and/or Vigilance Proceeding for decades becomes bad.

6. Fact involving the case reveals that there is a disciplinary proceeding pending against the petitioner besides the vigilance proceeding pending in the court of Special Judge, Vigilance, Sambalpur in C.T.R. Case No. 09 of 2015 arising out of Sambalpur Vigilance P.S. Case No. 88 of 2010. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2010, but charge-sheet involving the Vigilance case was submitted in the year 2015. However the said vigilance case is yet to be disposed of. Pleading also

Signature valid

Digitally Signed
Signed by: BIRAJA MALLIK
Designation: ASSISTANT SECTION OFFICER
Reason: VERIFIED
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 05-Dec-2024 16:56:04



further made clear that Disciplinary Proceeding initiated against the petitioner in the year 2016 is of no consequence because of Govt. Circular dated 17.06.2021 (Annexure-5). In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2018 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2010. For the settled position of law, this Court in disposal of the writ petition observes, petitioner cannot suffer for the long pendency of the vigilance proceeding. It is also not known when the Vigilance Proceeding initiated in the year 2010 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Principal Secretary to Govt. of Odisha, Water Resources Department, Bhubaneswar-O.P. No.1 to give promotion to the petitioner to the rank of Superintending Engineer (Civil) from 30.04.2018 and Chief Engineer from 01.07.2020, i.e., the date of his juniors and batchmates got such promotions. However the promotions of the petitioner as per direction of this Court shall be subject to the ultimate outcome in the Vigilance Proceeding. Further it is also clarified that the promotion given to the petitioner to different ranks shall not confer equity in the event, he will ultimately lose the Vigilance Proceeding. Entire exercise shall be completed within four weeks from the date of communication of this direction. It is also clarified that upon promotion, petitioner shall also be entitled to all consequential benefits.

7. Writ the above observation, the writ petition thus stands disposed of

Issue urgent certified copy as per rules.

Atok

(DR. B.R. SARANGI)
JUDGE

Signature valid

Digitally Signed
Signed by: BIRAJA MALLIK
Designation: ASSISTANT SECTION OFFICER
Reason: VERIFIED
Location: HIGH COURT OF ORISSA, CUTACK
Date: 05-Dec-2024 16:56:04

HIGH COURT OF ORISSA

Copy Application No. : 101316/2024

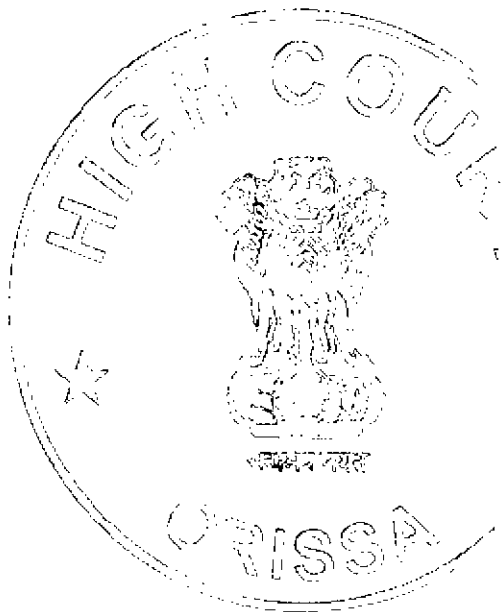
Date of Notification : NA

Date of Supply : NA

Date of Application : 05/12/2024

Date of Ready : 05/12/2024

Date of Delivery : 05/12/2024



Signature valid

Digitally Signed
Signed by: BIRAJA MALLIK
Designation: ASSISTANT SECTION OFFICER
Reason: VERIFIED
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 05-Dec-2024 16:56:04

Signature valid

Digitally Signed
Signed by: PRAVAT KUMAR MOHANTY
Designation: SUPERINTENDENT (M)
Reason: EXAMINED
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 05-Dec-2024 17:07:33

Signature valid

Digitally Signed
Signed by: LAXMIDHAR MOHAPATRA
Designation: ASST. REGISTRAR (ESTT.)
Reason: CERT. TO BE A TRUE COPY AD
75.BSA.2023
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 05-Dec-2024 17:17:13

IN THE HIGH COURT OF ORISSA : CUTTACK

WRIT APPEAL NO. 2191 OF 2023.

State of Odisha and others. ... Appellants

-Versus-

Sudhir Ranjan Patel ... Respondents.

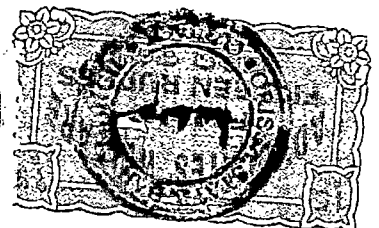
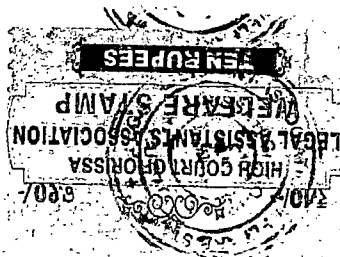
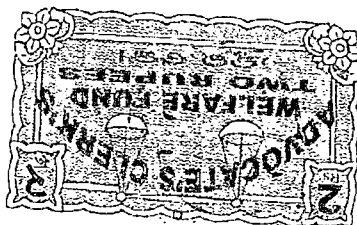
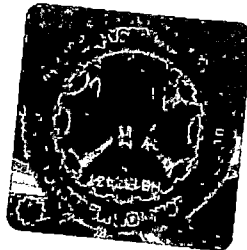
APPEARANCE MEMO

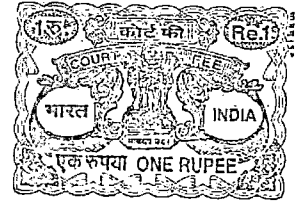
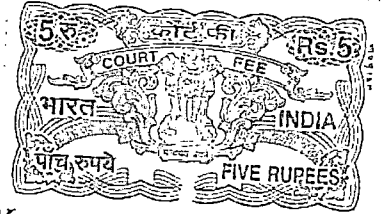
I do hereby enter my appearance in the above
noted case on behalf of the State of Odisha.

CUTTACK.

DATE: 28.8.2023.

M. K. Balabantaray
ADDL. GOVT. ADVOCATE.
(Malaya Balabantaray)
ENROLMENT NO. 664/1994
MOBILE NO. 94370-23377





IN THE HIGH COURT OF ORISSA: CUTTACK.

I.A. NO. 5935 OF 2023

(Arising out of W.A. No. 2191 of 2023)

In the matter of :

An application under Chapter VI
Rule-27(A) of the High Court of
Orissa;

And

In the matter of :

An application to dispense with for
filing of certified copy of Order
dated 07.10.2021 passed by the
Hon'ble Single Judge, in W.P.(C)
No.31328 of 2021;

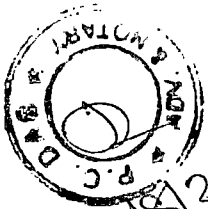
And

IN THE MATTER OF :

State of Odisha and another ... Appellants.

-vrs-

Sudhir Ranjan Patel ... Respondents.



28/8/23 To

The Hon'ble Chief Justice and His Lordships
companion justices of the Hon'ble High Court of
Orissa.

MALAY KETAN BALABASTROY
CARE NO 0-604/1994
my ph. 9432023397

Prasanta Kumar Acharya

The humble memorandum of appeal
of the above named appellants;

MOST RESPECTFULLY HEWETH:-

1. That, the appellants have filed the above mentioned writ appeal, challenging the impugned Order dated 07.10.2021 passed by the Hon'ble Single Judge, in W.P.(C) No.31328 of 2021.
2. That, the averments made in the writ appeal may be read as part and parcel of this interim application and those are not reiterated here for the sake of brevity.
3. That, it is respectfully submitted that the certified copy of Order dated 07.10.2021 passed by the Hon'ble Single Judge, in W.P.(C) No.31328 of 2021 has been applied for and soon after receipt of the order, the same be filed before this Hon'ble Court, accordingly filing of certified copy of the above said order may kindly be dispensed with for the time being.
4. That in view of the above said facts and circumstances, the Hon'ble Court may graciously be pleased to dispense with for filing of certified copy of Order dated 07.10.2021 passed by the Hon'ble Single Judge, in W.P.(C) No.31328 of 2021 for the time being.

Prasanta Kumar Sarker.

Hony. Secy.



PRAYER

Therefore, in view of the above facts and circumstances, it is most respectfully prayed that your Lordships may graciously be pleased to allow this interim application and dispense with for filing of certified copy of Order dated 07.10.2021 passed by the Hon'ble Single Judge, in W.P.(C) No.31328 of 2021 for the time being and pass such other order/orders as may deem fit and proper.

And for this act of kindness, the appellants shall as in duty bound ever pray.

By the appellants through

CUTTACK

DATE: 28.8.2023

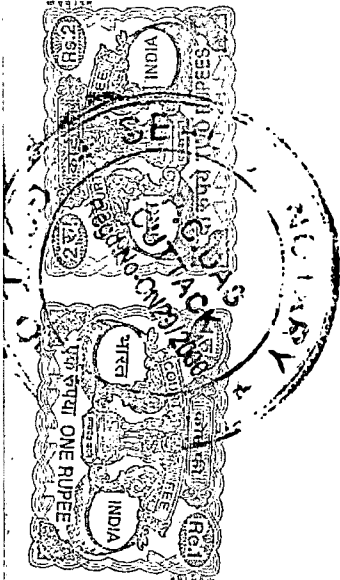
MEHAR KETAN KOLAPANTRAY
Addl. Govt. Advocate.

Prasanta Kumar Meher

AFFIDAVIT

I, Sri Prasanta Kumar Meher, aged about 49 years, S/o- Shyam Sundar Meher, at present serving as Under Secretary to Govt. of Odisha, Water Resources Department, Bhubaneswar, Dist: Khurda, do hereby solemnly affirm and state as follows: -

- 1 That, I am the appellant No1 being acquainted with the facts of the case has been duly authorized by the appellants to swear this affidavit on their behalf



2 That, the facts stated above are true to the best
of my knowledge, information and based on
official records available.

Identified by James H. Pardo
Advocate Clerk of A.G. Office

Prasanta Kumar Meher.

DEPONENT

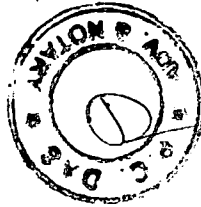
**Under Secretary to Govt.
Department of Water Resources**

CERTIFICATE

Due to lack of cartridge papers this is typed in
thick white papers

Date 28.8.2023

Additional Government Advocate
ENCL NO - 0 - 664/1994
m/jph-94370-23377

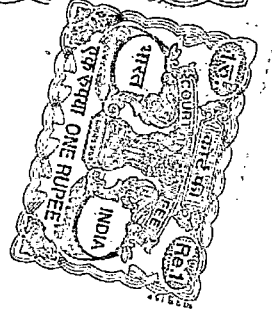


28/8/23

The above named deponent

Solemnly affirming..... 28/8 22
..... being identified

by..... A. Pandey AC



IN THE HIGH COURT OF ORISSA, CUTTACK

I.A. No. 5936 of 2023

(Arising of W.A. No. 2191 of 2023)

In the matter of :

An application U/s.5 of the Limitation Act;

And

In the matter of:

State of Odisha & another.....Appellants

-Versus-

Sudhir Ranjan Patel.....Respondent

To

The Hon'ble Chief Justice and His Lordships companion justices of the Hon'ble High Court of Orissa.

The humble petition of the above named appellants;

Most Respectfully Sheweth:

1. That the appellants have filed the accompanying writ Appeal challenging the judgment and order dated 07.10.2021 passed in W.P.(C) No.31328 of 2021 under Annexure-2.

Pranata Kumar Mishra

MAHARAJ KETAN BACABANTHAKAR
ENR NO - 0-664/1994
W/PN-9437023377

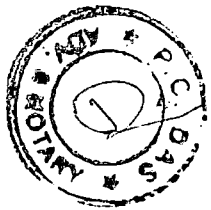


2. That the averments made in the memo of appeal may be read and treated as part and parcel of this application and those are not reiterated for the sake of brevity.

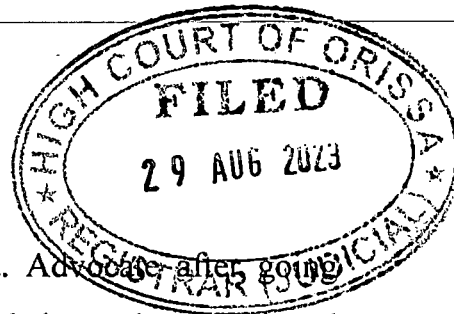
3. That in the present case, the order was delivered on 07.10.2021 and Writ Appeal was required to be filed within 30 days. But the same has been filed on _____ due to the facts and circumstances enumerated below.

4. That the Law Department vide letter No.2727 dtd.3.3.2022 requested the learned Advocate General, Odisha, Cuttack for filing of writ appeal against the order dtd.07.10.2021 passed in W.P.(C) No.31328 of 2021 and with a copy to the Department of Water Resources for filing of writ appeal on behalf of the State-appellants. The Special Secretary to Govt., Water Resources Deptt. vide letter No.6393 dtd.14.3.2022 requested the learned Advocate General, Odisha, Cuttack for filing of writ appeal against the order dtd.07.10.2021.

5. The learned Advocate General entrusted the file to the learned Addl. Govt. Advocate on 30.03.2022 for filing of writ appeal. The learned Addl. Govt. Advocate requested the Water Resources Department to furnish relevant documents for discussion and filing of writ appeal.



Pravanta Kumar Meher



6. The learned Addl. Govt. Advocate after going through the case record drafted the Writ Appeal and the same is filed on 29/8/23.

7. That, in view of the above, there is a delay of about 666 days in filing the Writ Appeal before the Hon'ble Court which is neither intentional nor deliberate rather the same has been caused due to inter Departmental reference, certain official consultative and approval processes, which were beyond the control of the Appellants.

8. That, the appellants have a high chance of success in the appeal and unless the delay in presenting the Writ Appeal is condoned and the matter is heard on merits, the appellants will be seriously prejudiced and put to irreparable loss.

Prananta Kumar Meher

P R A Y E R

It is therefore, humbly prayed that this Hon'ble Court may graciously be pleased to allow the I.A. and condone the delay of 666 days in filing the Writ Appeal.

And for this act of kindness, the Appellants shall as in duty bound ever pray.

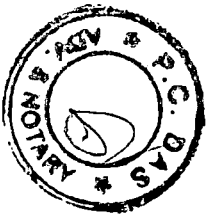
By the Appellants through

Cuttack

Date: 28.8.2023

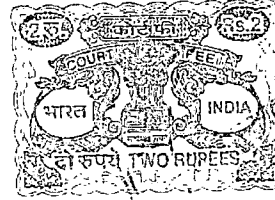
Malaya KETAN ABHAYANTRAY.
Addl. Govt. Advocate

ENIL NO - 0-664/1994
m/PH - 94320 23322



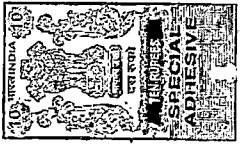
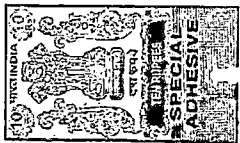
-4-

AFFIDAVIT



I, Sri Prasanta Kumar Meher, aged about 49 years, S/o. Shyam Sundar Meher, presently working as Under Secretary to Govt. of Odisha, Water Resources Department, Rajiv Bhawan, Bhubaneswar, District-Khurda, do hereby solemnly affirm and state as follows:-

1. That I am the appellant No.1 in the aforesaid case and competent to swear this Affidavit.
2. That, the facts stated above are true to the best of my knowledge and based on records.



Identified by
[Signature]
Advocate's Clerk,
A.G's Office

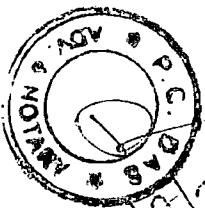
Prasanta Kumar Meher
DEPONENT
Under Secretary to Govt.
Department of Water Resources

CERTIFICATE

Certified that Cartridge papers are not available.

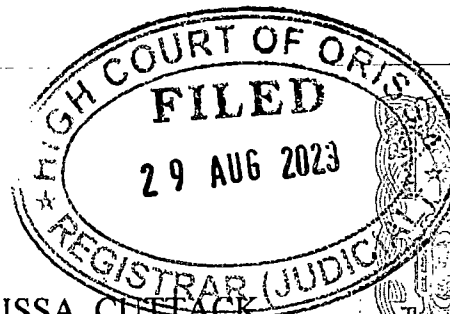
CUTTACK.
DATE: 28.08.2023.

Malaya KETAN BALABANTARAY
ADDL. GOVT. ADVOCATE.
(Malaya Balabantaray)
ENROLMENT NO. 0-664/1994
MOBILE NO. 94370-23377



28/8/23

The above named deponent *P.K. Meher*
Solemnly affirm on *28/8/23*
being identified
by *L.D. Panda, AIC*



IN THE HIGH COURT OF ORISSA, CUTTACK

I.A. No. 5937 of 2023

(Arising out of W.A. No. 2191 of 2023)

In the matter of :

An application for stay under Rule 27(a)
of Chapter- VI of the Orissa High Court
Rules;

And

In the matter of:

State of Odisha & another.....Appellants

-Versus-

SudhirRanjan Patel.....Respondent

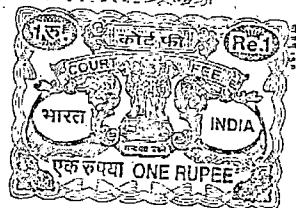
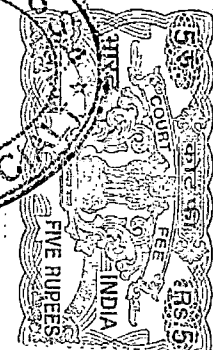
To

The Hon'ble Chief Justice and His
Lordships companion justices of the
Hon'ble High Court of Orissa.

The humble petition of the
above named appellants;

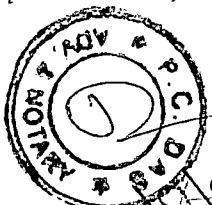
Most Respectfully Sheweth:

1. That, the appellants have filed the accompanying
writ Appeal challenging the judgment and order dated



Prananta Kumar Meher

*For MURRAY KETAN BALAKANTH
ENPL. NO 0-66411994
my ph-9437023372*



28/8/23

07.10.2021 passed in W.P.(C) No.31328 of 2021 under Annexure-2.

2. That the averments made in the Writ Appeal may form a part of this application.
3. That the appellants have a prima-facie case to succeed and the balance of convenience lies in favour of the appellants.
4. That unless operation of the order under Annexure-2 dated 07.10.2021 is stayed, the appellants will sustain irreparable loss and injury.

PRAYER

Under these circumstances, the petitioners most humbly pray that this Hon'ble Court be graciously pleased to stay operation of the order under Annexure-2 dated 07.10.2021 passed in W.P.(C) No.31328 of 2021 pending disposal of the accompanying writ appeal;

And for this act of kindness, the appellants as in duty bound shall ever pray.

By the appellants through

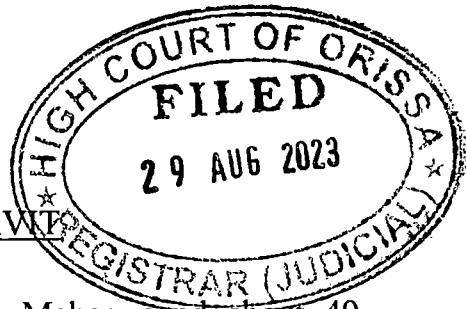
Cuttack

Date : 28.8.2022

MALAYA KETAN BHATTACHARYA
Addl. Government Advocate

Prasanta Kumar Acharya





AFFIDAVIT

I, Sri Prasanta Kumar Meher, aged about 49 years, S/o. Shyam Sundar Meher, presently working as Under Secretary to Govt. of Odisha, Water Resources Department, Rajiv Bhawan, Bhubaneswar, District- Khurda, do hereby solemnly affirm and state as follows:-

1. That I am the appellant No.1 in the aforesaid case and competent to swear this Affidavit.
2. That, the facts stated above are true to the best of my knowledge and based on records.

Identified by

Advocate's Clerk,
A.G's Office

Prasanta Kumar Meher.

DEPONENT

Under Secretary to Govt.
Department of Water Resources

CERTIFICATE

Certified that Cartridge papers are not available.

Cuttack

Date : 28.8.2023

MAHARAJA KETAN PRADIPANTRAY,
Addl. Government Advocate

ENR. NOO-664/1994

1/PH-9437023322

The above named deponent, P.K. Meher.

Solemnly affirmed on 28/8/23

being identified

by L.D. Panda A/c.

