

**ORDER by Revenue Divisional Commissioner (SD) Berhampur**  
**(Pursuant to Hon'ble High Court of Odisha Order No.2 Dated 10.2.2021)**

**Hon'ble High Court Order in WP(C) No.3911/2021 filed by Sri Lokesh Patro**

The Hon'ble High Court in WP(C) No.3911/2021 filed by Sri Lokesh Patro vide Order No.2 dtd.10.2.2021 ordered that "In view of the aforesaid limited grievance of the petitioner, without expressing any opinion on the merits of the case, this Court disposes of the writ petition directing opposite party No.2 to consider and dispose of the representation filed by the petitioner in Annexure-3 series, taking into consideration the enquiry report in Annexures-1, and pass appropriate order within a period of six weeks from the date of communication / production of an authenticated/ certified copy of this order".

The petitioner Sri Lokesh Patro provided an uncertified copy of the Hon'ble High Court order which was received in the office on 15/02/2021, but the authenticated/certified copy of the Order was received from the Superintendent of the High Court of Orissa, Cuttack (signed on 26.2.21) only on 05/04/2021 via normal dak. Whereas the Hon'ble High Court had directed passing of appropriate order "within a period of six weeks from the date of communication/production of an authenticated/certified copy of this order," due to the second wave of Covid19 in the State during the ensuing months and the restrictions imposed on movement and gathering/meetings in order to contain the virus, and the pre-occupation of concerned field officials in Covid19 related work, the progress in the case took a direct hit despite its urgent initiation immediately on receipt of the Hon'ble Court order.

The petitioner Sri Lokesh Patro and Government officers like BDO, Kukudakhandi, Tahasildar, Kukudakhandi, Executive Engineer, R&B, Division-II, Berhampur and Executive Engineer, Quality Control Division,

Berhampur were noticed to appear before this Authority and to tender their respective submissions on the matter on two dates of hearing - 09/03/2021 and 22/06/2021. Their respective contentions are reproduced below.

**Petitioner's contention in brief**

As per Annexure-3 of the WP(C) No-3911/2021, the petitioner prays "to remove the obstruction caused by some people and utilize the Chua pond for the use of the public at large which is situated at Lochapada vide Survey No.831 an extent of area Ac.0.225 classified as an Adi and Survey No.832 an extent of area Ac.3.340 classified as Jalasaya- I (Heta Bandha) under Khata No.520 of Lochapada Mouza under the Kukudakhandi Tahasil of Ganjam District. The State shall restore the pond, develop and maintain the same as a recreational spot which will undoubtedly be in the best interest of the villagers. Further it will also help in maintaining ecological balance and protecting the environment."

The pond is used by people of the locality and domestic animals and birds who are all dependent on the years old pond. The pond is the main source of irrigation for agriculture purpose. But some builders, mafia and influential persons are encroaching on the pond and its embankment and have constructed buildings for their own benefit. He has also mentioned that the above land is encroached by the local Sarapanch Minati Behera and her husband Bulu Behera and their henchmen builders/mafia/political influence persons due to inaction of the Revenue Authorities. The petitioner has also alleged that the illegal construction has been done forcibly for Panchayat Office, shop room, market complex, library and toilets without site clearance permission from R &DM Department.



The State Govt. has not sanctioned budget for construction of the Panchayat Office/Shop rooms/ library building by encroaching the Pond / its embankment and Govt. lands. The State Govt. has sanctioned amount of Rs.10 lakhs for renovation of the CHUA Pond under the AMO GAON AMA BIKASH Scheme of the year 2018-2019, which is situated at Lochapada under the Kukudakhandi Tahasil of Ganjam district and the petitioner questions how public money has been spent in the Lochapada Gram Panchayat under the Ama Gaon Ama Bikas Scheme/other schemes and why the Block officials have not properly supervised the works.

He prayed that necessary orders be passed in compliance to the order dtd.10.02,21 pronounced by the Hon'ble High Court in WP(C) No-3911 of 2021.

**Land schedule in the case (Khata/Plot No./Mouza/Kisam)**

Mouza	Khata No.	Plot No.	Area in ac	Occupied area in ac	Kisam	Structures
Lochapada	520 (Rakhita)	831	0.225	- 0.047	Adi	Panchayat Office
		832	3.340	- 0.016	Jalasaya-I	
		831	0.225	- 0.028	Adi	Market Complex

**Details of hearing on Dt. 09.03.2021**

The first hearing in the case was conducted on 9.3.2021 at the RDC office in presence of Tahasildar, Kukudakhandi, BDO, Kukudakhandi and the Petitioner Sri Lokesh Patro and his advocate. Interim order was issued which is reproduced below:

“Heard the learned counsel for the petitioner, the Tahasildar Kukudakhandi, BDO Kukudakhandi and the petitioner. Also perused the order No.2 dtd.

10.02.2021 of the Hon'ble High Court, Odisha in WP(C) No. 3911/2021, wherein it has been ordered that, the OP No.2 i.e. RDC(SD) Berhampur to consider and dispose off the representation filed by the petitioner in annexure-3 taking into consideration enquiry report at Annexure-1 within six weeks from the date of communication of this order or production of authenticated certified copy of the order. In this case the petitioner submitted that CHUA pond of the Lochapada is a century-old water body and it is the life-line for the local people. People of the locality as well as domestic animals, birds are depending upon the pond. The pond is the main source of irrigation for agriculture/potable water purpose and it is the only pond situated at Lochapada village. The local people also use the pond to perform the death rituals. Illegal construction has been done forcibly in the name of Gram Panchayat Office, Shop rooms/ market complex/ library without site clearance/accordance of permission from the Revenue & Disaster Management Department.

“The BDO, Kukudakhandi present during the enquiry submitted that Lochapada G.P comprises of only one village. At the time of site selection, the Committee found that there was no other suitable vacant Government land available for the above purpose other than the suit plot. Further people of the locality demanded for construction of GP building in the proposed site as per decision in the GP meeting.

“The Tahasildar, Kukudakhandi submitted that during enquiry it was found that Panchayat Office building and market complex were already constructed over the suit plots 831 (Adi) and 832 (Jalasaya) which are normally inadmissible in nature.

“Besides the contention raised by the petitioner, there are divergent views on the matter from Tahasildar and BDO, Kukudakhandi. Therefore, it is only

proper that, the ADM(Revenue), Ganjam and PD, DRDA, Ganjam must visit the site for proper field enquiry and submit a joint report to the undersigned within a fortnight.

“Further, the petitioner, BDO, Kukudakhandi and Tahasildar, Kukudakhandi are free to submit additional documents/ statements in writing in substantiation of their respective contentions within one month.

“As an interim measure it is ordered that no occupational/operational activities shall be made on the suit plots and the structures raised thereon till final disposal of the case.

“Issue orders as above to all concerned for strictest adherence.”

**Details of hearing on Dt. 22.06.2021.**

After the Covid19 situation improved in Ganjam district, the final hearing in the case was conducted on 22.6.2021. Tahasildar, Kukudakhandi, Block Development Officer, Kukudakhandi, Executive Engineer, R&B Division No. II, Asst. Engineer, R&B Division, No.II, Executive Engineer, Quality Control Division, Asst. Engineer, Quality Control Division, R.I. Nimakhandi and Lokesh Patro (the petitioner) were present. The recorded proceeding is reproduced below:

“This case is taken up to-day for second hearing in pursuance to Order No.2 dated 10.02.2021 of Hon’ble High Court, Orissa, Cuttack passed in WP (C) No.3911 of 2021.

“Tahasildar, Kukudakhandi, Block Development Officer, Kukudakhandi, Executive Engineer, R&B Division No. II, Asst. Engineer, R&B Division, No.II, Executive Engineer, Quality Control Division, Asst. Engineer, Quality

Control Division, R.I. Nimakhandi and Sri Lokesh Patro (the petitioner) were present.

“RDC asked Tahasildar, Kukudakhandi to present her views regarding the matter. She placed that the matter was duly inquired by Revenue Inspector, Nimakhandi and found that the Panchayat Office Building and Market Complex has been constructed over Plot No.831(Adi) and 832 (Jalasaya) of Lochapada village which is objectionable in nature as classification of the plots are “AADI” and “JALASAYA” respectively pertaining to Khata No.520 (Rakhita). She intimated that an encroachment case has been initiated against Sarapanch Lochapada G.P for such construction over the aforesaid objectionable land.

“Further R.I., Nimakhandi submitted that there was no suitable land available in Lochapada village for construction of GP Office.

“RDC asked Block Development Officer, Kukudakhandi to present his views regarding the matter BDO, Kukudakhandi stated that Lochapada GP comprises of only one village consisting of population of 16,000 approximately. The Tahsildar was requested for identification of land for the proposed G.P building.

“BDO said that the matter was placed in the Gram Sabha and all the villagers were agreed to the above proposal except Lokesh Patro. No other allegation petitions have been received from any public regarding the construction other than Sri Lokesh Patro. There is also dire need of a GP Office. The funds were released from different schemes and there was demand for the GP Office.

“He added that the then Tahasildar had submitted the report of RI Nimakhandi that there was no suitable land and proposed the suit land for site selection. The present land selected though classified as Adi is fit for GP Office building as the same has already lost its characteristics. Besides there is sufficient land available for Adi adjacent to this land. The Site Selection Committee found the suit land suitable for construction of G.P building.

“The Site selection committee comprises of following members

Sub-Collector, Berhampur(Chairman), and E.E, R&B, Berhampur, E.E PHD, Berhampur, CDMO,Ganjam, Asst Engineer RWSS, E.E South Co, BDO Kukudakhandi as members and Tahasildar Kukudakhandi as member convenor. The site selection committee decided to submit the proposal to Collector Ganjam. The same was forwarded by Sub-Collector Berhampur to ADM,Ganjam vide L No 17142 dt 6.12.19.

“On perusal of the report of Collector, Ganjam vide Letter No.577 dated 25.02.2021 it is seen that the proposal was moved to Government in Revenue & Disaster Management Department for change of classification vide Letter No.600, dated 10.02.2020 as the land schedule is classified as Jalasaya and Adi. In response, Government in Revenue & Disaster Management Department have instructed to follow the instruction vide their Letter No.7458 dated 13.02.2020 of Government in Revenue & Disaster Management Department.

“BDO, Kukudakhandi told that the activities which were previously performed by the villagers are still going on in that Bandha after construction of GP building.

“RDC asked the petitioner to submit if any other suitable land is available in Lochapada for the GP Office. He could not submit any information regarding this.

“The report from Executive Engineer Quality Control has been received vide Letter No.566, dated 12.05.2021 on soil stability of the construction. Further, a joint field enquiry report from ADM (Revenue) Ganjam and PD, DRDA, Ganjam has also received vide Letter No.1415, dated 23.04.2021.

“On being asked the E.E R&B Div-II has stated that he will submit the report on the said building shortly after visit to the field.

“After hearing the officers and the petitioner present, RDC directed the Tahasildar, Kukudakhandi to submit a report whether any proposal has been submitted to District Office for change of classification of land in pursuance to Letter No.7458, dated 13.02.2020 of Government in Revenue and Disaster Management Department.”

### **Reports received from different Authorities**

**BDO, Kukudakhandi** submitted the report vide L.No.567 dtd.18.2.2021 and L.No.822 dtd.18.03.2021 which revealed that there was no suitable Govt. land available for construction of GP Office building. Lochapada G.P. comprises single village having population of 16,377 as per Census Report, 2011. It is a newly created GP, there was no office building to “function day to day office work and other buildings such as library, market complex to undertake developmental works.” The timeline for construction of GP office was fixed to 31.12.2017 by Govt in P.R. & DW Department vide L.No.7388 DT.28.04.2017. The Tahasildar, Kukudakhandi was requested vide L.No.9786 dt.31.10.2017 by PD, DRDA Ganjam for identification of the land for the purpose. Similarly vide L.No.13690 dt.08.11.2017 of Sub-Collector, Berhampur and L.No.2095 dt.10.11.2017 of BDO, Kukudakhandi, the Tahasildar, Kukudakhandi was again requested. Further the suit land has been selected in the GP meeting held on 25.11.2017 and also got approved in the Grama sabha on dtd.26.01.2018.

There is no such cultivated lands in the surroundings of the Chuan bandha and there is no obstruction to any person to use the said bank for their bathing and other purposes. The report also discloses that the work order has been issued at the estimated cost of Rs. 35 lakhs (Devolution fund Rs.15 Lakhs and MGNREGA fund Rs.20 Lakhs) as per L.No.7388 dt.28.04.2017 of P.R & D.W Department and L.No. 3848(A) dt.16.05.2017 of PD, DRDA Ganjam.



The Chuan Bandha is on the Plot No.385 having its area Ac.1.245 dec. and Hetabandha is on Plot No.832 having its area as Ac.3.340 dec. respectively. The total area of the Chuan Bandha and Heta Bandha is Ac.4.585 dec. and that is surrounded by its Adi which is on the plot Nos.384, 386, 830, 831 and 833 having its area Ac.0.185 dec., Ac.0.180 dec, Ac.0.035 and Ac.0.225 respectively. Out of those Adi lands, the land of Western-side (Plot No.384,833) was used to “enter” rain water in-side the Chela Bandha having some natural cutting places and the rest Eastern-side Adi lands (Plot Nos.830, 831) are adjacent to the Main Bazar-Road of Lochapada and which is now one of the busiest market areas towards Berhampur City, where there is no water entry-points to Chela-Bandha and after that, the eastern side lands are gradually low lands towards Sea-shore.

**Tahasildar, Kukudakhandi** submitted the report vide Memo.No.1017 dtd.23.2.2021 which reveals that as per the requisition of BDO Kukudakhandi on 06.02.2019 for alienation of the suit land the Sub-Collector, Berhampur was requested to confirm the Site selection committee meeting for Alienation of the land for construction of the G.P building. As there was no suitable land available for the purpose, the above mentioned land was tentatively selected although it was recorded as Adi in the ROR. The site selection committee meeting was conducted on dt.31.08.2019 for the suit land vide K.No.520, Plot No.831 and 832 and forwarded to Collector, Ganjam for approval vide L.No.17142 dtd.6.12.2019 of Sub-Collector, Berhampur. The site selection proceeding was not approved by the Collector, Ganjam and the Tahasildar was instructed to identify alternative suitable land vide L.No.2936 dt.4.10.2019. The Tahasildar, Kukudakhandi vide L.No.5269 dtd.16.11.2019 has intimated that Lochapada village is adjacent to Berhampur Municipal Corporation and coming within BeDA jurisdiction and suitable Govt. land is also not available for



purpose. The Tahasildar, Kukudakhandi has also reported that the suit land has already lost its characteristics and now suitable for the said purpose.

It is revealed from the report of **Collector, Ganjam** vide L.No.577 dt.25.2.2021 that a proposal was moved to Govt. in Revenue & D.M. Deptt. vide Letter No.75 dated 07.01.2020 and No.600 dtd.10.02.2020 as the land schedule is classified as Jalasaya and Adi (coming under Rural area) for change of classification. In response, Government in Revenue & Disaster Management Department have instructed vide Letter No.7458, dated 13.02.2020 to follow the procedure as prescribed in Revenue & Disaster Management Department L.No.44549 dt.22.12.2017.

As per L.No.44549 dtd.22.12.2017 of **Govt. in Revenue & D.M. Deptt.:**

“Govt. have been pleased to constitute a committee under the Chairmanship of Revenue Divisional Commissioners in their respective division pursuant to the judgement of Hon’ble High Court in WP(C) No.8797 of 2004 & OJC No.6721 of 1999 with the following as Members of the Committee, referred to above, to deal with protection, preservation and conservation of water bodies in urban area of the State.

“It is therefore requested to follow the procedure as mentioned in the above referred letter and orders of the Hon’ble Court in this regard at your end.”

Accordingly, any proposal with regard to the classification of land in and around the pond/s should have followed process and been transmitted to the RDC. It is however confirmed that no such proposal has been received in the office of the RDC (SD) till date.



The **BDO, Kukudakhandi** has also submitted report regarding alternative facilities provided for the public in Lochapada GP vide his L.No.822 dt.18.03.2021 which include the following;

“Drinking water provided house to house through pipe water supply by Panchayat.

- i. At present there are two numbers of overhead tanks having capacity of 30000 Ltrs and 50000 Ltrs, and 200000 Ltrs underground water for drinking water facility.
- ii. Further each house will be covered under Janibili Water Project and DPR for the same has been approved.
- iii. There are three numbers of bandha, namely Nua bandha, Balighai bandha and Gobinda bandha in addition to Chua bandha for bathing, drinking of birds and animals and for other purposes.
- iv. Besides there are 68 nos. of tube wells.

The **Joint Enquiry Report** conducted by the **ADM (Rev) and PD, DRDA Ganjam** was received vide L.No.1415 dtd.23.4.2021 which indicates that;

“...the plot No.831 to an extent Ac.0.075 (out of Ac.0.225) has already lost its characteristics in the field by constructing G.P Office building and market complex. A part of land to the extent of Ac. 0.016 (out of Ac.3.340) in plot No.832 has lost its characteristics in the field. Presently the water body (in the rest area of plot No. 832) is being developed by the Block authority for the interest of general public for use of bathing and other allied activities. As the land has already lost its characteristics and major portion of land is still Jalasaya and being used by general public, the change of classification of land to the extent of Ac. 0.016 may please be considered with a open passage to the water body. It is found that earlier the surrounding area of water body i.e. plot No. 830,831,833 and 834 was classified as Adi. In the meantime, the major portion



of the Adi has been merged with the water body which resulted into increase of the water body”.

The report of **Executive Engineer, Quality Control Division, Berhampur** (vide No.566/WR Dt.12-5-2021) informs that;

“...An undisturbed soil sample has been collected from the site in presence of the concerned JE in charge of work of Kukudakhandi block. The sample has been collected at a depth of about 8 ft. below the existing ground level i.e, at the bed of column foundation. The sample is tested at the laboratory and the safe bearing capacity of the soil is calculated and the value is 25.34 Ton/Mt square...” which is more than the standard “...3” which is “taken as factor of safety.”

The report of **Executive Engineer R&B Div-II** (vide Letter No.5579 Dated 23.6.21) reveals that the Gram Panchayat Office Building and other connected structures were jointly verified by AEE, AE, Bhanjabihar (R&B) Sub Division and BDO, Kukudakhandi block on 19.06.2021, 21.06.2021 and 22.06.2021 and “found the building is structurally strong/stable under normal climate condition.”

### **Chronological flow of events**

An assessment of all connected submissions evident in the reports and documents submitted to this Authority by all parties establishes the following sequence:

- Correspondence made by B.D.O.,Kukudakhandi with Tahasildar,Kukudakhandi for identification of Govt. land vide L.No.2095 dtd.10.11.2017 and L.No. 2540 dtd.29.12.2017
- Site selection Committee met on 31.08.2019 for Plot No.831



- A.D.M, Ganjam returned the site selection proposal citing the proposed site as objectionable land with direction for identification of alternate, suitable, leasable Govt. land for the purpose vide L.No.2936 dtd.4.10.2019.
- Sub-Collector, Berhampur returned the site selection proposal for compliance of the order of A.D.M, Ganjam vide L.No.14877 dtd.22.10.2019
- Tahasildar, Kukudakhandi in his L.No.5269 dtd 16.11.2019 intimated the Sub-Collector Berhampur that the construction of GP office building had already started during 2017 and has been built up to plinth level. Lochapada village is adjacent to Berhampur Municipal Corporation and coming within BeDA jurisdiction and suitable Govt. land is also not available for the purpose. The present selected land though classified as Adi is fit for G.P. office building as the same has already lost its character and now suitable for the same proposal.
- Sub-Collector, Berhampur submitted the proceeding of site selection committee meeting to ADM, Ganjam mentioning the fact cited by Tahasildar, Kukudakhandi for alienation of the previously selected land for the purpose vide L.No.17142 dtd.6.12.2019
- The Collector, Ganjam submitted proposal to Govt.in Revenue &D.M. Department vide L.No.75 dtd.7.1.2020 and L.No.600 dtd.10.02.2020 for change of classification of Plot No.831 (Adi).
- Govt. in Revenue &DM Department vide their L.No.7458 dtd.13.02.2020 advised to follow the procedure mentioned in L.No.44549 dtd.22.12.2017 of R&DM Department in this regard.

### **Appraisal of submissions and conclusions**

From the above, it is very clear that the construction activities on the suit land had begun in 2017, which is before the site selection committee meeting on



31.08.2019. The BDO, Kukudakhandi requested Tahasildar Kukudakhandi for selection of site only in November of 2017 followed by a reminder towards the end of 2017. The Tahasildar's reply to the Sub-Collector Berhampur dated 16.11.2019 indicates that constructions began in 2017 itself and had been completed up to plinth level. So, the charge that the construction was started without adhering to the requisite procedure and did not have the permission of the Revenue authority is established. Whatever may have been the compulsion, due process prescribed in Rules cannot be overlooked or violated.

Lochapada is indeed a single-village Gram Panchayat adjoining Berhampur Municipal Corporation area which has been notified as such vide Panchayati Raj Department notification No. 11430 Dated 4/7/2016. Therefore, despite its proximity to an urban area and even with its urban characteristics, Lochapada is officially a 'rural' area. The instruction given to the Collector Ganjam vide L.No.7458 dtd.13.02.2020 by the Revenue & DM department - citing an existing dispensation contained in their Letter no. 44549 dated 22.12.2017 which was created on the basis of the principles contained in the order of the Hon'ble High Court of Orissa in WPC no.8797 of 2004 and OJC no. 6721 of 1999 - is with regard to change of classification of Jalasaya kism of land in urban areas, wherein such proposals have to be placed before the Committee headed by the Revenue Divisional Commissioner for approval. The R & DM department have directed that the Lochapada case, also being under 'Jalasaya'/'Adi' kism, be subjected to the same procedure prescribed in the aforesaid letter. However, even before this proposed change of classification could be processed, the building complex has already been structurally completed since 2020 as per information given by BDO, Kukudakhandi vide his letter no.567 dated 18.02.2021.



The fact that alternative Government land to accommodate the GP office complex (other than the contested site) is not available in a congested habitation like Lochapada is borne out by the Tahasildar's letter to the ADM, Ganjam No.1016/Suit Dated 23.02.2021 and also by the submissions made by the R.I. Nimakhandi during the hearings conducted by the RDC. The petitioner Sri Lokesh Patro was also asked during the hearing, whether he as an interested citizen party to the case also has any information on availability of admissible land in Lochapada, for which he denied having any knowledge other than what the revenue officials have related.

That being said, the allegation that the Sarpanch, her husband and their "henchmen builders" and "mafia" have pursued their own interests in the name of Panchayat by "encroaching and filling the Jalasaya" has not been elaborated by the petitioner except for a passing reference in his application. However, one thing that is clear is that the GP office building complex (including market complex, toilet, library) is public property constructed out of Government funds and aimed at meeting the dire necessity of a panchayat office for the welfare of the people and other developmental requisites in the area. Above all, no corroborative evidence has been presented by the petitioner that work was executed by displacing the water body.

With regard to the petitioner's hinting at disturbance to the ecological balance in the area as a result of the building complex, the BDO Kukudakhandi has responded that the pond and its surrounds continue to be accessed unhindered by both humans and animals for all their needs. Further, it has been put on record by the officer that the population is adequately served by high-capacity overhead tanks and underground water sources. Piped water-supply to households under the Janibili water project has also been planned. "There are



three numbers of bandha, namely Nua bandha, Balighai bandha and Gobinda bandha in addition to Chua bandha for bathing, drinking of birds and animals and for other purposes.”

Coming to the building complex itself, its envisioned utility as the nodal centre for administration of and planning for the development of Lochapada Gram Panchayat cannot be undermined. A gram panchayat cannot function without a dedicated office of its own. The unique situation of Lochapada as a single-village panchayat with high density of population seems to have placed it in a peculiarly tight spot very unlike other GPs having luxury of space to choose from. As the issue literally puts two Government departments – Revenue & DM Department and Panchayati Raj and D.W. Department – at the crossroads, this Authority had directed the ADM (Revenue), Ganjam and Project Director, DRDA Ganjam to make a joint spot visit and report on the matter. Their joint report only reiterates what has already been contended by the BDO Kukudakhandi and the Tahasildar Kukudakhandi that there is no other suitable land available within the jurisdiction of the village and this report prays for essentially condoning the obvious aberration in procedure committed for public purpose under pressing circumstances.

As for the safety of the building structure and stability of soil at the site, Executive Engineers from unrelated departments/agencies viz EE R&B (Div II) and EE (Quality Control Division Berhampur) have each given favourable reports on the quality of the construction and stability of the soil to bear the additional load.

At the first instance kisams like Jalasaya, Nalla, Adi, Bandha etc are primarily impermissible for construction and other developmental activities. However, under adequate justification that the land has lost its original characteristics and



purpose, and/or that alternatives for the purpose have been provided or are available at the site, the classification of land can be changed by following due procedure as laid down by the Government. In the present Lochapada case, the proper way would have been to first await requisite land clearances and to start developmental works only after change has been effected on the classification of land.

### **Order**

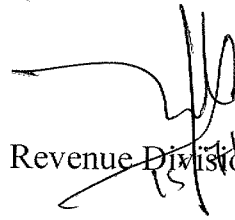
With thorough appreciation of the issues at hand and due appraisal of submissions from all parties connected to the case, the following directions are given:

1. The GP office building complex and other add-on amenities shall not be operationalized or utilized or new structures planned as long as the land kizam on which the structures stand remains as 'Jalasaya' or 'Adi' or under such other restricted classification on revenue record.
2. Any proposal for change in classification of land can only be initiated with proper justification, and with the Collector, Ganjam being fully satisfied on record that any such change and build-up will not adversely affect access to and use of the existing water-body by both humans and animals, nor obstruct the ingress and egress of rainwater/excess water to and from the bandha (pond). Natural drainage in the area can only be facilitated, not obstructed.
3. The public shall continue to enjoy access to the pond for their needs as before.
4. The OPLE case (EC) No. 03/2020 already booked against the Sarpanch, Lochapada Gram Panchayat by Tahasildar Kukudakhandi shall be pursued strictly as per Rules and taken to its logical end, irrespective of the finding and outcome of the present case.



5. Tahasildar Kukudakhandi shall also conduct proper ground verification in and around the pond area and take effective steps as per law to remove encroachment by private parties, if any.

With the above, the direction of the Hon'ble High Court of Orissa in its Order No.2 Dated 10.2.2021 of WP(C) No.3911/2021 is complied with and the case disposed of for adherence by all concerned. *Inter alia*, the interim order of this Authority dated 09.03.2021 stands superseded by this final order.



Revenue Divisional Commissioner,  
Southern Division, Odisha, Berhampur