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THE HIGH COURT OF ORISSA: CUTTACK

Letter No. 19613 (30) **/ Date : 16.12.2022**
(XLII-03/2013-2022)

OFFICE OF THE DISTRICT & SESSIONS JUDGE ★ BOUDH ★ RECEIVED 16 DEC 2022

From:

Pratap Kumar Patra
Registrar General

To

The District & Sessions Judge ..... (All)

Sub: **Order dated 14.12.2022 of the Hon'ble Supreme Court of India passed in MISC. APPLN. Diary No(s). 33859 in Transfer Petition(s) (Civil) No(s). 2419 of 2019 (M/s. PLR Projects Pvt. Ltd. Vrs. Mahanadi Coalfields Limited & Ors.)**

R-3962
15-12-22

Sir/ Madam,

I am to forward herewith the copy of the order dated 14th December, 2022 of the Hon'ble Supreme Court of India passed in MISC. APPLN. Diary No. (s). 33859/2022 in Transfer Petition(s) (Civil) No.(s). 2419 of 2019 (M/s. PLR Projects Pvt. Ltd. Vrs. Mahanadi Coalfields Limited & Ors.) for favour of your information and necessary action.

Yours faithfully,

PRATAP KUMAR PATRA
Digitally signed by PRATAP KUMAR PATRA
Date: 2022.12.16 14:59:30 +05'30'

REGISTRAR GENERAL

Encl.: As above (12 pages)

ITEM NO.39 COURT NO.2 SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

MISCELLANEOUS APPLICATION Diary No(s). 33859/2022 IN T.P.(C) No. 2419/2019

M/S PLR PROJECTS PVT. LTD. Petitioner(s)

VERSUS

MAHANADI COALFIELDS LIMITED & ORS. Respondent(s)

(IA No. 159953/2022 - CLARIFICATION/DIRECTION)

Date : 14-12-2022 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE ABHAY S. OKA

For Petitioner(s)	**Mr. Arvind P. Dattar, Sr. Adv.**
HC Orissa	**Mr. Sibo Shankar Mishra, Adv.**
	Mr. Niranjan Sahu, Adv.
	Mr. Debabrata Sahu, Adv.
	Ms. Apoorva Sharma, Adv.
	Mr. Kaushik Poddar, AOR
For Respondent(s)	**Mr. Manan Kumar Mishra, Sr. Adv.**
Bar Council of	**Mr. S. Prabhakaran, Sr. Adv.**
India	**Mr. Ardhendumauli Kumar Prasad, Adv.**
	Mr. Nirmal Kumar Ambastha, Adv.
	Ms. Anjul Dwivedi, adv.
	Mr. Ram Shankar, Adv.
	Ms. Shreya Srivastava, Adv.
	Mr. Ashish Madaan, Adv.
	Ms. Ananya Sahu, Adv.
State of Odisha	**Mr. Ashok K Parija, Adv. Gen.**
	Mr. Gaurav Khanna, Adv.
	Mr. Shibashish Misra, AOR
	Mr. Ashok Kumar Panda, Sr. Adv.
	Mr. M.C. Nanda, Adv.
	Mr. Manoranjan Paikaray, Adv.
	Mr. Shashwat Panda, Adv.
	Mr. Anirudddha Purushotham, Adv.
	Mr. Tejaswi Kumar Pradhan, AOR

Signature Not Verified
Digitally signed by Charanjeet Kaur
Date: 2022.12.15 12:49:50 IST
Reason:

HC MP **Mr. Arjun Garg, AOR**
Ms. Sagun Srivastava, Adv.

HC Guwahati **Mr. Abhimanyu Tewari, Adv.**
Ms.Eliza Bar, Adv.

HC Calcutta **Mr. Kunal Chatterjee, AOR**
Ms. Maitrayee Banerjee, Adv.
Mr. Rohit Bansal, Adv.
Mr. Kshitij Singh, Adv.

HC Rajasthan **Mr. Joydip Roy, Adv.**
Mr. Gopal Jha, AOR
Mr. Baij Nath Patel, Adv.

HC P&H **Mrs. K. Entoli Sema, Adv.**
Ms. Chubalemla Chang, Adv.

Mr. V.N. Raghupathy, AOR

Mr. Gautam Narayan, AOR

Mr. Himanshu Shekhar, AOR

Ms. Sneha Kalita, Adv.

Mr. Kedar Nath Tripathy, Adv.

Mr. Dhananjai Jain, Adv.

Ms. Preetika Dwivedi, Adv.

Mr. Shantanu Sagar, AOR

UPON hearing the counsel the Court made the following

O R D E R

1. The Central Action Committee of all Bar Associations of Western Odisha indulged in agitation and writing to advance their case for setting up Benches of the Orissa High Court. Undoubtedly, the agitation went out of hand. It has been like the

ride of a tiger where the tiger has mauled, if not eaten them up. But then that is the consequence which must flow to them when they indulge in such activities.

2. Mr. Arvind Dattar, learned senior counsel for the High Court of Orissa has placed before us some suggestions which we want to deal with at the inception before we proceed further on different aspects.

The first submission is that there is no information of arrest of non-lawyers/outsiders who are visible in the vidoes and photographs and FIRs. must be registered under the relevant provisions against both lawyers and non-lawyers. We have little doubt that it has been an abject failure of the police and we did put to the police authorities whether they are capable or not of controlling the situation or would they require us to get some para military force deputed if they find themselves incompetent to handle the situation. The IG, Police, Sambalpur and the DGP, Odisha have assured that what has happened will not happen again and they take personal responsibility to ensure that complete peace is maintained and no interruption is caused in the working of Court in any manner, whatsoever. We clarify that whatever extent of force is to be

deputed must be deputed. Whatever element of force is necessary to enforce the discipline must be used and there shall be no mollycoddling because somebody is a lawyer or not and the FIR thus must be registered under the relevant provisions of the IPC and not a whitewash. We have indicated to the police authorities that their ability to control the position will be closely monitored by us in these on going proceedings.

Secondly, there is suggestion that all the office bearers of all the Bar Associations who participated in the boycott of the Courts on 12.12.2022 and indulged in violence should be issued contempt notices.

We agree with the suggestion. The list of all the members of the Bar Associations will be furnished by Mr. Sibo Sankar Mishra, learned counsel and contempt notices will be issued to all the members as to why they should not be proceeded against and punished in accordance with law for contempt of orders of this Court.

Thirdly, it has been stated that the demand for setting up of the Benches of the High Court is not only from Sambalpur but also from Bolangir, Koraput, Berhampur, Balasore, Sonepur, Rourkela. This seems to have become prestige issue rather than

a functional issue. In fact Mr. Dattar says that only Koraput and Bolangir fall within the parameters of the Jaswant Singh Committee report of 1985 which prescribed at least a distance of 300 km. Thus in terms of that Committee report, there is no question of setting up Benches elsewhere.

We may also note that with the passage of time when the use of technology has made the parameters in a sense obsolete. The use of technology has been quite widespread now in the Courts and monitored by the High Court of Orissa. Thus the very justification for having any Bench of the High Court no more exists.

In fact there are now counter demands of the Bhubaneswar Bar Association that the entire High Court should shift from Cuttack to Bhubaneswar. Naturally the Cuttack Bar Association opposes the same. The shifting of the High Court or creation of Benches is a matter of serious administration and cannot be done by such whimsical demands. We are putting this in the order to foreclose these issues which continue to be raised repeatedly and had produced this violence. In fact the Resolution passed by the Central Action Committee is only of suspension of on going movement of strike with a high hope for formation of permanent Bench of Orissa High

Court in Western Odisha at Sambalpur. We reject the Resolution. The Central Action Committee would have to call off the strike unconditionally and inform the other non-lawyers actors whom they have tried to rope in for purposes of enhancing their cause. There is no high hope for formation of a Bench much less a hope now. Even if there was some remote possibility, that is lost now with their conduct.

Fourthly, we are informed that from any District Court in Odisha, one can file a case in the High Court and also appear virtually. This has been possible with the technological progress. It is proposed that one dedicated room in every district Court premises in Odisha for the purposes of virtually appearing before the High Court every day will be functional soon and there can be adjacent back office to such room which will facilitate e-filing of cases in the High Court. The time period for operationalization of the same is stated to be in three months. We accept the same.

This is insofar as the report of the High Court of Orissa is concerned.

3. There is a report of the Director General of Police, Odisha on the events which took place on 12.12.2022 at Sambalpur and the action taken in pursuance thereto. Let us say that it is the

police's job to control law and order. They don't need any directions from us what to do. Suffice to say, what we have stated above, that complete peace and functionality of the Courts has to be maintained not only for the protection of the judicial officers but to ensure that whichever lawyers want to attend the Court are able to do so. We strongly condemn the endeavour of the striking lawyers to browbeat the Advocate General or members of Bar Council of India or the State Bar Council, including burning of the effigy. In fact what the report says is that these people did not hear the request of the police and converged on the entire road and disrupted free flow of traffic. In our view, if this is what was happening, the police should have affected preventive arrests and such people should remain in custody for some time at least and do not deserve any indulgence much less as the lawyers since they have lost their privilege of being an advocate. We have put the burden on the police authorities, which is their function, to treat the criminals like criminals and must be brought to book under the relevant provisions of the IPC.

4. The Bar Council of India has also submitted a report to us in a sealed cover. Orders have been passed on 12.12.2022 and 13.12.2022 specially after

perusing the videos and photographs by the striking lawyers who failed to heed any caution tendered by the Bar Council of India earlier. 43 lawyers have been suspended and it is an ongoing process as on the basis of material the Bar Council of India identifies more lawyers.

5. The concern for securing the offices of the Bar Council must be met by the police authorities. It has also been pointed out that some of the senior officers of the Bar Council of India are facing threats including, Mr. Manan Kumar Mishra, Senior Advocate of this Court who is the Chairman of the Bar Council of India. It shall be the State police's responsibility to give adequate protection to him. Mr. Prabhakaran, Vice Chairperson already has security and would be provided security whenever the Members of the Bar Council visit there to make appropriate direction in pursuance to the duties as the Bar Council members. Since the family of Mr. Mishra also faces threat as he is from Bihar, the State of Bihar is directed to make adequate security arrangements for them and to provide him security personally. This order be informed to the Director General of Police, Bihar.

6. Since the meetings are held by the Bar council

of India at their office at No. 21 Rouse Avenue, ITO, Commissioner of Police Delhi, will issue necessary instructions to make relevant security arrangements as and when meetings are held and the Bar Council will inform the local police authorities about the same.

7. Mr.Prabhakaran, has brought to our notice order passed in Suo Motu Contempt Petition No. 1834/2015. This is the judgment of the Division Bench of the Madras High Court dealing with somewhata similar scenario at the relevant time where the power of the Bar Council of India to suspend the lawyers pending inquiry was sought to be assailed. After the discussion of the aforesaid issue, it was observed in the concluding paras 24 and 25 as under:

> **"24. In view of the reasons aforesaid, we reject the argument that the Bar Council has no right to suspend practice pending disposal of disciplinary proceedings.**
>
> **25. Our answer to the question :**
>
> **We hold that the power of the Bar Council to revoke the licence to practice permanently or suspend it for a fixed term would also include the incidental power of interim suspension pending disposal of disciplinary proceedings for professional misconduct."**

8. We have examined the judgment and would like to give our imprimatur to the legal view expressed in the judgment.

9. We must impress upon the legal fraternity that the privilege of having the licence as a lawyer has to be used responsibly. It is the legal fraternity which provides redressal to affected parties representing their case. The disruption of normal functioning affects the litigants. We are saying so in the general context and not in respect of the incident which has been an exercise in lumpenness.

10. It has been pointed out by Mr. Dattar that some kind of an additional holiday arise when there is unfortunate demise of a lawyer, the work is called off suddenly in the morning itself disrupting the working. While we respect the sentiments of the legal fraternity to pay their respects to any member of the Bar, the methodology which is adopted by the Supreme Court and by the most High Courts is to have reference or a gathering for the said purpose on specified days which the local Bar Associations can determine. It should not be more than once a month and that too in the afternoon session after 3.00 p.m. so that the normal working is not disrupted and yet the sentiments which are sought to be expressed are conveyed.

11. We may note that local Bar Associations are the association of the practicing lawyers with the object of taking up issues in the interest of improving the working of the courts. The objective cannot be to hold a meeting to disrupt the working of the Courts. If such meetings are held to hold disruptions naturally the Bar Council of India is well within its rights to take a call on the conduct of the lawyers in question.

12. We express our appreciation for the assistance provided by the Bar Council of India and its office bearers in regulating the conduct of the members of the bar which should be of the highest order and the counsels for the High court who appear to assist us and also the Advocate General for the State of Odisha.

13. We hope that the police does not give us an opportunity now to recognize a failure of theirs which would call for outside force to be brought in.

14. In the end Mr. Panda, made an impassioned plea on behalf of Bar members of Sambalpur by saying that they should not feel that they are being victimized. In our view, they are getting what they deserve. If they had not participated in the events, we leave it to the Bar Council of India to see which are the

lawyers to be exempted but such an extreme action was called for because of the behavior of the lawyers at large in Sambalpur.

15. A request is made also that the bail applications of the lawyers who have been arrested should be considered as per law. In our view, every Court acts as per law and certainly there is no requirement of showing any indulgence to these lawyers.

16. We would close by saying that this has been a most painful exercise for us because the persons on this side of the Bar have also been members of the Bar but then the larger cause of the institution requires us, as well as the Bar Council of India, to take action as done as the very edifice of the judicial system is sought to be shaken by such disruption and criminal activities carried on by a section of the Bar.

17. List on 06.02.2023.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)