

ITEM NO.64

COURT NO.2

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s).114/2014

COMMON CAUSE

Petitioner(s)

VERSUS

UNION OF INDIA . &amp; ORS.

Respondent(s)

(ADDITIONAL AFFIDAVITS DT. 16.1.2018 AND SUPPLEMENTARY ADDL. AFFIDAVIT DT. 29.1.2018 AND SECOND SUPPLEMENTARY AFFIDAVIT DATED 20.07.2018 FILED BY STATE OF ODISHA)

Date : 29-10-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE S. ABDUL NAZEER  
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Harish N. Salve, Sr. Advocate (A.C.)(NP)

Mr. A.D.N. Rao, Advocate (A.C.)  
Mr. Sudipto Sircar, Adv.

Mr. Siddhartha Chowdhury, Advocate (A.C.)

Ms. Aparajita Singh, Advocate (A.C.)

For Petitioner(s) Mr. Prashant Bhushan, AOR (NP)  
Mr. Pranav Sachdeva, Adv.

For Respondent(s)  
Odisha

Mr. Rakesh Dwivedi, Sr. Adv.  
Ms. Kirti R. Mishra, AOR  
Ms. Sansriti Pathak, Adv.  
Ms. Apurva Upmanyu, Adv.

Mr. Shibashish Misra, Adv.  
Mr. Chandan Kumar Mandal, Adv.  
Mr. Ompal Singh, Adv.

Ms. Pinky Anand, ASG  
Ms. V. Mohana, Sr. Adv.  
Mr. A.K. Panda, Sr. Adv.  
Mr. Gurmeet Singh Makker, AOR  
Mr. Balendu Shekhar, Adv.  
Mr. P.K. Mullick, Adv.  
Mr. Atulesh Kumar, Adv.

Mr. Hemant Arya, Adv.  
 Mr. Raj Bahadur, Adv.  
 Mr. Pankaj Sharma, Adv.  
 Mr. B.K. Prasad, AOR  
 Mr. S.K. Pathak, Adv.  
 Ms. Aakanksha Kaul, Adv.  
 Mr. Chakitan Vikram Shekher Papta, Adv.

FIMI Mr. Sunil Dogra, Adv.  
 Mr. Vivek Vishnoi, Adv.  
 Mr. Abhishek Sharma, Adv.

OMC Mr. Raj Kumar Mehta, AOR  
 Mr. Gopal Subramaniam, Sr. Adv.  
 Mr. Ashok Parija, Sr. Adv.  
 Mr. Mahesh Agarwal, Adv.  
 Mr. Anand Varma, Adv.  
 Mr. Naveen Kumar, Adv.  
 Mr. Dhananjaya Mishra, Adv.  
 Mr. Gaurav Khanna, Adv.  
 Ms. Nishit Agarwal, Adv.  
 Ms. Devika Mohan, Adv.  
 Mr. E.C. Agrawala, Adv.

UPON hearing the counsel the Court made the following  
 O R D E R

We have heard learned counsel for the parties and learned *amicus curiae* and have also seen the response filed by the State of Odisha in respect of functioning of the Special Purpose Vehicle (SPV).

Learned counsel for the parties are all agreed that Hon'ble Mr. Justice A.K. Patnaik, retired Judge of this Court may be appointed as an Oversight Authority to consider the effective functioning of the SPV. Hon'ble Mr. Justice A.K. Patnaik is at liberty to take the assistance of any one or two officers or retired High Court Judges of his choice to assist him for this purpose. It is made clear that a day to day oversight is

not at all necessary.

It is further agreed as follows:

(a) Hon'ble Mr. Justice A.K. Patnaik is appointed by this Court to oversee the work and progress carried out by the Special Purpose Vehicle ('OMBADC'). Hon'ble Mr. Justice A.K. Patnaik may assume charge as an Oversight Authority in terms of the orders of this Court with immediate effect and may issue suitable communications to the State Government including the OMBADC.

(b) The priority of the projects as stated in the affidavit filed by the State of Odisha dated 20.10.2018 may be modified to prioritize the following and move them up the ladder with other activities in the first phase:

(i) Provision of drinking water through piped water supply projects.

(ii) Improvement of health services including development of primary health centers, mobile medical vans, eye clinics, infrastructure for specialty health care, hospitals, tie ups or referral systems with major hospitals, etc.

(iii) Improvement of educational services including the infrastructure of educational institutions, technology based alternative learning, etc.

(c) Priority to the expenditure from the amounts recovered out of the judgment of this Court may be utilized in the districts of Keonjhar, Mayurbhanj and Sundargarh. However, Hon'ble Mr. Justice A.K. Patnaik is

at liberty to ensure that the funds are utilized for nearby districts if it becomes necessary and if nearby districts are affected by pollution.

(d) Quarterly report of performance may be filed by the SPV before Hon'ble Mr. Justice A.K. Patnaik. The quarterly report may be filed for the first year and thereafter if necessary after six months.

(e) In addition, having regard to the nature of the funds and quantum of funds which are involved in the matter, the CEC may also carry out a complete on-the-spot verification about the utilization of the moneys and file a report before Hon'ble Mr. Justice A.K. Patnaik.

(f) Hon'ble Mr. Justice A.K. Patnaik may consult the Comptroller and Auditor General, the Principal Accountant General as well as the Chief Secretary to ensure that the idle and reserve funds may be deposited in the highest yield-granting risk-free securities.

(g) It will be open to Hon'ble Mr. Justice A.K. Patnaik to appoint such auditors as he may consider appropriate or request the CAG to get a distinct and accurate account of expenditures by the State Government/OMBADC from SPV funds.

Hon'ble Mr. Justice A.K. Patnaik may submit the first report to this Court as and when he deems appropriate.

(SANJAY KUMAR-I)  
AR-CUM-PS

(KAILASH CHANDER)  
ASSISTANT REGISTRAR