



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.834 of 2026

*Nrusingh Charan Muduli* .... *Petitioner(s)*

*Ms. Suryanshi Srivastava, Adv.*

*-versus-*

*State of Odisha & Ors.* .... *Opposite Party(s)*

*Mr. Sonak Mishra, ASC*

**CORAM:**

**HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI**

Order No.

02.

ORDER

08.04.2026

1. This matter is taken up through hybrid arrangement.
2. In filing the present CRLMC, the Petitioner has prayed for quashing of the order dated 21.02.2026 passed by the Sub-Collector & Sub-Divisional Magistrate, Cuttack in Misc. Case No.19 of 2026, as well as the consequential notice dated 21.02.2026 issued by the Tahasildar, Nischintakoili.
3. Heard learned counsel for the parties.
4. The brief facts of the case are that in the year 2023, construction/development work of "Mahapurush Shree Achyutananda Mini Stadium, Nemalo" was undertaken departmentally and the Petitioner, being a contractor, was selected and entrusted by the Opposite Parties to execute the said work. The Mini Stadium was constructed over Ac. 7.00 decimals of land covering eight plots under Khata No.579/181 within Nischintakoili Tahasil. The land stands recorded in the name of the Higher



Education Department, Odisha, represented through Mahapurush Achyutananda Mahavidyalaya. Since the work was a Government project, the formal work order was issued in the name of the Junior Engineer, Sri Anam Charan Biswal. The Petitioner executed the work under the supervision of the said Junior Engineer, the Assistant Executive Engineer Sri Nalini Mohapatra, and the then B.D.O., Nischintakoili, Sri Dharmaranjan Panda.

5. After substantial completion of the Mini Stadium, the Assistant Engineer, Junior Engineer, and Panchayat Executive Officer, Nischintakoili inaugurated the said facility.

6. Prior to inauguration, a joint meeting was convened by the concerned officials, wherein the Petitioner was requested orally to complete additional works such as flooring, Gallery No.2 and the changing room. Acting upon such directions and under field supervision of the officials, the Petitioner completed the additional works on a war-footing at his own cost.

7. It is contended that the Petitioner has received only a sum of Rs.82,00,000/- towards running bills, whereas the estimated project cost was Rs.1,27,80,000/-. In addition, the Petitioner claims to have incurred approximately Rs.60,00,000/- towards the additional works executed prior to inauguration. Despite completion of the work, the final bill has not yet been released. The Petitioner submits that he has incurred expenditure towards labour and materials on credit and is suffering severe financial hardship, mental agony and physical stress due to non-payment.



8. The Petitioner repeatedly approached the authorities for release of his dues. An inquiry was conducted by the B.D.O., Nischintakoili, and the report dated 17.02.2026 submitted to the Sub-Collector, Sadar, Cuttack clearly records that although the Stadium has been completed, the executant has not received full payment for the expenditure incurred.

9. While the matters stood thus, on 02.01.2026, the Tahasildar, Nischintakoili approached the Sub-Collector, Cuttack alleging unauthorized locking of the Mini Stadium by the Petitioner and sought appropriate orders for removal of such alleged obstruction. Consequently, Misc. Case No.19 of 2026 was registered and on 21.02.2026, the Sub-Collector & Sub-Divisional Magistrate, Cuttack, without issuing notice to the Petitioner or affording an opportunity of hearing, passed an ex-parte order under Section 152 of the BNSS, 2023 directing immediate removal of the lock and handing over possession to the B.D.O., Nischintakoili.

10. Learned counsel for the Petitioner submits that the impugned order is vitiated in law, as the authority failed to consider the admitted fact, as reflected in the B.D.O.'s inquiry report, that the Petitioner has not been paid his legitimate dues. Non-consideration of relevant material renders the order arbitrary and unsustainable.

11. It is further contended that the Sub-Collector & Sub-Divisional Magistrate ought to have addressed and attempted to resolve the underlying dispute between the parties instead of issuing coercive



directions. Passing an ex-parte order without adjudicating the competing claims amounts to improper exercise of jurisdiction.

12. Learned counsel further submits that once the authority itself characterized the dispute as a “private dispute”, initiation of proceedings at the instance of the Tahasildar under summary jurisdiction is legally untenable. The impugned order thus suffers from jurisdictional error and non-application of mind.

13. It is also contended that the authority failed to appreciate that the work was executed pursuant to a Government project on the land belonging to the Higher Education Department and the Petitioner has admittedly not been paid the final bill. The impugned order and consequential notice are, therefore, arbitrary and liable to be quashed.

14. Further, it is argued that the impugned order has been passed in gross violation of the principles of natural justice, particularly *audi alteram partem*, as no opportunity of hearing was afforded to the Petitioner. Such an order, being procedurally unfair, is liable to be set aside.

15. Learned counsel for the State, on the other hand, submits that the Petitioner unlawfully obstructed access to a public property situated on Government land and, therefore, the order passed by the Sub-Collector & Sub-Divisional Magistrate suffers from no illegality or infirmity.

16. The impugned order passed by the Sub-Collector & Sub-Divisional Magistrate, Cuttack is reproduced below:



“.....

WHEREAS, Tahasildar, Nischintakoili vide Ltd. No.663 dtd. 21.02.2026 has submitted regarding the unauthorized locking of Mahapurusha Shree Achyutananda Mini Stadium at Nemalo and apprehension of breach peace owing to unjustly depriving the general public of the locality to access a complete public amenity. Given the volatile public sentiment and the fact that a breach of peace may erupt at any moment the Tahasildar, Nischintakoili has recommended to pass a restrictive order for removal of un-lawful obstruction/nuisance.

AND WHEREAS, it appears that Mahapurusha Shree Achyutananda Mini stadium, Nemalo, a public property situated on Govt. land is being unlawfully obstructed by one Sri Nursinga Charan Mudulli of Jaladia, PO-Orikanta, District- Cuttack and the Tahasildar, Nischintakoili has reported that such obstruction is causing public grievance and may lead to breach of peace;

NOW, THEREFORE. I Dibyajyoti Smruti Ranjan Deo, OAS-A(SB), Sub-Collector & Sub-Divisional Magistrate, Cuttack, in exercise the power vested on me under Section-152 of Bharatiya Nagrik Surksha Sanhita. 2023 do hereby direct that:

I. No private dispute shall obstruct public access to this Govt. property.

II. Sri Nursinga Charan Mudulli of Jaladia, PO-Orikanta, District-Cuttack shall immediately remove the lock and obstruction and handover the keys to the EDO, Nischintakoili.



*III. BDO, Nischintakoili and Tahasildar, Nischintakoili shall ensure the stadium is open for public use forthwith.*

*Owing to the necessity of the situation, this order is passed ex parte under Section-152 of BNSS. Any one aggrieved by the order may approach the competent authority for modification/waiver of the order.*

*The order shall come into force with immediate effect.*

*Given under my hand and seal on this day of the 21<sup>st</sup> February, 2026."*

17. Upon hearing learned counsel for the parties and upon perusal of the materials available on record, this Court finds no illegality or infirmity in the impugned order and notice dated 21.02.2026, inasmuch as the Petitioner has admittedly obstructed access to the Mini Stadium at Nemalo, which is a public property situated on Government land.

18. The Petitioner cannot resort to self-help or coercive measures to enforce a monetary claim. Even if any amount is due, the appropriate remedy lies in approaching the competent authority or initiating proceedings in accordance with law for recovery of such dues. Taking law into one's own hands by restricting access to public property is impermissible in law.

19. In view of the above, the CRLMC being devoid of merits, stands dismissed.

20. However, it is observed that dismissal of the present petition shall not preclude the Petitioner from pursuing appropriate legal remedies



for recovery of his alleged dues before the competent forum in accordance with law. The Petitioner is further cautioned not to indulge in any unlawful activities in future.

*( Dr. Sanjeeb K Panigrahi )*  
*Judge*

*Sipun*