

ITEM NO.41

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

MISC. APPLN. 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 : 14-11-2022 These matters were 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. Datar, Sr. Adv.  
Mr. Sibbo Sankar Mishra, AOR  
Mr. Niranjan Sahu, Adv.  
Mr. Debabrata Dash, Adv.  
Mr. Umakant Mishra, Adv.

Mr. Kaushik Poddar, AOR

For Respondent(s) Mr. Arjun Garg, AOR

Mr. Gopal Jha, AOR

Ms. Renuka Sahu, AOR

Mr. Jagannath Nanda, Adv.

Mr. Abhimanyu Tewari, AOR

Ms. Sneha Kalita, AOR

Mr. Ashok Kumar Parija, Sr. Adv.

Mr. Sibbo Sankar Mishra, AOR

Mr. Rajesh Kumar Nayak, Adv.

Mr. Kunal Chatterji, AOR

Ms. Maitrayee Banerjee, Adv.

Ms. Rohit Bansal, Adv.

Ms. Kshitij Singh, Adv.

Mr. Kedar Nath Tripathy, AOR

Ms. Preetika Dwivedi, AOR

Mr. Dhananjai Jain, AOR

Mr. V. N. Raghupathy, AOR

Mr. Shantanu Sagar, AOR

Mr. Gautam Narayan, AOR

Ms. Asmita Singh, Adv.

Ms. Arushi Gupta, Adv.

Mr. Himanshu Shekhar, AOR

Mr. Karunish Kumar Shukla, Adv.

Mr. Amit Kumar Singh, Adv.

Mrs. K. Enatoli Sema, AOR

Ms. Chubalemla Chang, Adv.

Mr. Prang Newmai, Adv.

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

M.A. D. No.33859/2022

Access to justice is the very foundation of a legal system. The legal fraternity is the instrument of access to justice to the people at large. When the very instruments abstain from court proceedings, the casualty is the access to justice to common people and it is the common people and litigants who suffer. We will not countenance this.

The conduct of many associations and of lawyers has been far from satisfactory in the State of Orissa. This has compelled us to pass orders earlier and undertakings were given before us that there would not be repeat of the issue of lawyers abstaining from

work. This absentation naturally includes any part time absentation in a day or for whole day.

A reading of the application shows that the Members of Bar Association not only of western Orissa but also Members of Bar Association of other districts of State of Orissa have on different occasions not participated in regular court proceedings. The reasons stated in the application are being reproduced hereunder:-

- Establishment of permanent Bench of the High Court of Orissa
- Demise of Advocates
- Demanding establishment of Court
- Bharat Bandh
- Flood
- Scorching heat
- Demanding crop insurance
- Registration of case against Advocates
- Heavy rainfall
- Demise of judicial officers
- Transfer of judicial officers
- Enhancement of welfare funds, etc.

In paragrpn 5 it has been set out how some of the district associations have behaved:

"5. In addition to the above, it may be appropriate to mention here that the Members of Bar Association of the districts of Sambalapur have attended only urgent work on 26.9.2022, 27.9.2022 and 30.9.2022, observed 28.9.2022 as protest day, and complete cease work on 30.9.2022. The members of Ganjam Bar Associations are observing "Satyagrah/Dharna" during the last four days of the every month, the Members of the District Bar Association,

Jeypore of the Koraput district are not participating in the last two working days of every month and the members of Bhubaneswar Bar Association are observing one day cease work on the last Friday of every month.”

The aforesaid is supported by the report of learned district Judges. It is pointed out that even selective working has been considered as breach of duties of an advocate as opined by this Court in Order dated 10.1.2020.

It is averred in paragraph 7 that the Chief Justice and Administrative Judges of the High Court convened back to back meetings with all members of the Bar Associations of the State as have the district Judges but members of the Bar Association do not even participate.

The statistics for the period of 01.01.2022 to 30.9.2022 show that during this period the loss of cumulative judicial working hours in the subordinate Courts is 2,14,176 hours. The effect practically is to bring the working of the judicial system to a stand still jeopardizing the litigating public.

Another illustration given is that on 11.10.2022 the Bhubaneswar Bar Association resolved to boycott the Court of the District and Sessions Judge, Khurda at Bhubaneswar from 12.10.2022 till the issues that have been raised with the District Judge is resolved with a request not to pass any adverse orders in any civil/criminal cases in the absences of the advocates.

In view of the aforesaid facts set out in the prayer has been sought seeking directions of the concerned District Bar Association

to furnish an explanation for not adhering to the assurances give to this Court.

We had asked on mentioning that the Bar Council of India should also be represented before us and the learned counsel for the Bar Council of India has placed before us an Order dated 13.11.2022 passed by the Hon'ble Chairman, Bar Council of India.

In terms of the order, the Presidents/Vice Presidents and Secretaries along with all the Members of the Executive Committee of five associations have been placed under suspension from their respective offices and are required not to discharge any function of their respective officers and remain out of offices till further from the Council.

However, this is confined to five district Bar associations as under:-

1. Sambhalpur District Bar Association, Orissa
2. Baramba Bar Association, District Cuttack
3. Bar Association Tangi, District Khurda
4. Taleher Bar Association, District Angul
5. Pallhara Bar Association, District Angul"

The order also states that if the strike/boycott is not recalled by tomorrow, the license of practice of individual lawyers participating in this boycott/abstention shall be put under suspension with immediate effect. Certain other actions have also been taken against some members.

The Chairman of the Bar Council of Orissa is present before us who supports the factual scenario of not only these 5 district Bars

being at strike but practically 20 district Bars being at strike.

While we appreciate the steps taken by the Chairman of the Bar Council of India in pursuance to the duties he has, further steps would be required qua all the other associations also if they do not fall in line.

We expect full working by all the Bar associations by day after tomorrow failing which the Bar Council of India will proceed further in similar actions as brought before us by the Chairman's order dated 13.11.2022 against all office bearers of the remaining Bar associations.

We have put all these Bar Officers and their office bearers to notice that a non-compliance would invite proceedings from this Court for contempt, the Bar Council of India would be expected to take action for suspension and cancellation of licences of the lawyers and any other further step in this behalf.

A list of the Bar Association members has been handed over to learned counsel for the Bar Council of India and submitted before us also.

We may also notice that insofar as setting up of Benches is concerned, there is a change of ground reality with technology being introduced in functioning of the Court.

We expect the High Court of Orissa to place before us status report qua the computerization which has been effected to facilitate functioning of the District Courts.

Learned counsel seeks to appears for the Central Action Committee, All Bar Associations of Western Odisha and will be

handed over a copy of the application today itself and may respond within a week.

Learned counsel for the Bhubaneswar Bar Association present in Court submits that the Bhubaneswar Bar Association has not been on strike after 10<sup>th</sup> November, 2022 and undertakes that there will be no future strikes by the Bhubaneswar Bar Association.

The Chairperson of the Bar Association of Orissa/Advocate General for the State makes a submission that the State of Orissa is willing to give all police assistance as may be required for the functioning of the District Courts.

In view of the assurance we expect appropriate police assistant at all the District Courts. We expect Judicial Officers at the State level to perform their functions without fear or favour whether lawyers are present or not present and the consequences of adverse orders will have to be borne by the lawyers who in turn are accountable to the litigants.

The given scenario is further reflected in a report by the Office of the Nayayadhikari-cum-J.M.F.C. Grama Nayalaya, Tangi as contained in a letter dated 21.10.2022 filed as additional affidavit of the Registrar General of the State of Orissa wherein it is stated that when the Tangi Bar Association called for seizure of work, they were staying at the Court premises very late hours and the Bar President being fully drunk was hitting the main door of the Court building and on inquiry by the staff abused them. Such a conduct itself would dis-entitle somebody like this person to ever practice at the Bar.

The additional affidavit of the High Court be also handed over to the counsel for the Committee.

The President and Secretary, Central Action Committee, All Bar Association of Western Odisha to remain personally present in the Court on the next date.

List on 28<sup>th</sup> November, 2022.

(RASHMI DHYANI PANT)  
COURT MASTER

(POONAM VAID)  
COURT MASTER