

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMP No. 1200 of 2023

Dr. Biswajeet Lenka

....

Petitioner

Mr. S. K. Ojha, Advocate

-versus-

Union of India and Others

....

Opp. Parties

Mr. D. Biswal, ASC

Mr. U. R. Jena,

Panel Counsel for Union of India

For O.P. Nos.1-3

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

09.01.2024

Order No.

06.

1. Heard learned counsel for the Petitioner, Union of India and the State.

2. It is submitted by learned counsel that the Petitioner is an eminent Geoscientist from Geological Survey of India, Govt. of India, Ministry of Mines, a President Awardees for the National Geosciences Award-2014 is in lurch as his personal reputé is under stake by his colleagues who keep on tarnishing his image by brining several write ups, articles and letters in the Google app besides anonymously sending mails in the name of the Petitioner as well as his family members. The matter having brought to the notice of the police by way of a complaint, the same was registered vide Cyber Crime and Economic Offense Police Station VSS Nagar, Bhubaneswar bearing FIR No.002712023 dated 13.03.2023 under

Annexure-2 series. Subsequent to the registration of the FIR, the miseries of the Petitioner did not go away as the mischief mongers did not stop their writing putting the image of the Petitioner constantly in jeopardy. As no visible action was taken by the police, the Petitioner moved this Court in the present. Vide order dated 07.11.2023, this Court passed order directing the concerned parties including the Government of India to obtain instructions in the light of the notice issued under section 91 of the CrPC to Google.

3. Mr. Jena, learned counsel representing the Union of India submits that it has no nexus with the concerned party i.e. Google to obtain instructions as far as the cyber crime police is concerned, according to learned counsel for the Petitioner, no step was taken after the FIR being registered even to the extent of getting any information from Google.

4. Learned counsel for the State submitted that in the reply to the application, an affidavit has been sworn on 22.09.2023 by the IIC, Cyber Crime wherein it is categorically mentioned that in response to the letter dated 28.04.2023 Google has provided the compliance through its legal request platform mentioning that “we are unable to produce the requested data at this time as your request appears to be invalid under applicable laws, policies and procedures. Additionally, it appears that your request may implicate the fundamental rights and freedoms of a user of Google’s services, and we are unable to proceed without further information”.

5. A letter has been furnished by the learned counsel for the Petitioner under Annexure-5 received purportedly from the Grievance Appellate Committee (GAC), Government of India

wherein it clearly reveals that the Grievance Appellate Committee admits that there is no direct communication from the I.O. of Nayapalli Police Station, Bhubaneswar or its Commissioner of Police otherwise binding orders could have been passed by GAC to provide to the details to police as asked for.

6. In view of the above, it is tall tale clear that the Police in the Cyber Crime have remained completely recalcitrant in pursuing the investigation in the right direction with sincerity. Needless to mention that the action, if would have been performed in the right direction at the right time by the Cyber Crime and Economic Offences Police, the imputation made to the Petitioner and his image would not have been under jeopardy.

7. In the recent past this Court has come across several cases under the grip of Cyber Crime. People of the State are in complete cloud on the increased number of cases under the Cyber Crime. It is not understood if any policy has been evolved to tackle the menace by the State Government so far. From the reports placed in the Court it can very well be presumed that the manner the Cyber Crimes are handled would pose a great threat as hardly any interest is shown for a sincere and deep rooted investigation. This Court expresses displeasure on the aforesaid action of the Cyber Crime and Economic Offences which is clear from the reply of the GAC, Government of India.

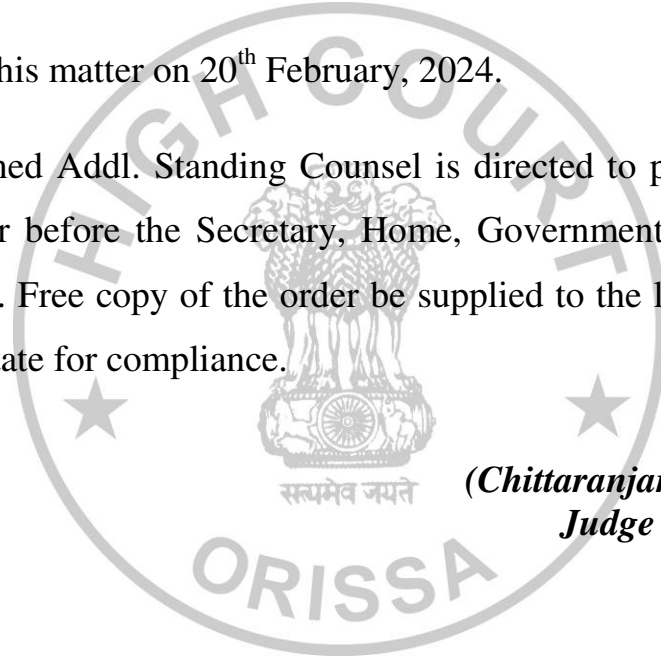
8. Having regard to the fact that the matter is pending for quite some time and while the Petitioner who is recognized by the highest authority of the Country is suffering for no fault of him, the investigating agency is remaining silent and allowing the mischief

mongers to hold the filed in tarnishing his image day in and out. This Court is constrained to direct the Director General, Crime CID, CB to monitor the case on priority basis and ensure that no such unauthorized and illegal statement against the Petitioner be made on the surfaces of the Google or otherwise and to file an affidavit with regard to the steps taken in the investigation by the next date.

9. It is also directed that the Secretary, Home, Government of Odisha to submit an affidavit and appraise this Court on the various policies, if any formulated to tackle the menace of Cyber Crime.

10. List this matter on 20th February, 2024.

The learned Addl. Standing Counsel is directed to place a copy of this order before the Secretary, Home, Government of Odisha for appraisal. Free copy of the order be supplied to the learned counsel for the State for compliance.



(Chittaranjan Dash)
Judge