

GOVERNMENT OF ODISHA
GENERAL ADMINISTRATION & PUBLIC GRIEVANCE DEPARTMENT

No. GAD-SC-MISC-0006-2024-13844/GEN Dated:06.05.2024

From:

**Surendra Kumar, IAS
ACS, GA & PG, Govt. of Odisha**

To

**All Additional Chief Secretaries
All Principal Secretaries
All Commissioner cum Secretaries**

Subject: Actions to be taken for filing of appeals/SLP-regarding.

Madam/Sir,

As you are aware, in Contempt Cases filed in the Hon'ble High Court of Orissa, for non-compliance of Orders, HHC has held the position that mere filing of SLP in the Supreme Court with no Orders for stay of application of the Order of the lower Court, does not absolve the contemnor of the charges of contempt. In fact, Hon'ble High Court has been directing for personal appearances of the Authorities in Hon'ble Court (seeking explanations as to why a Contempt Proceeding shall not be initiated against them) and the number of such cases has been alarming in the recent past. P

Recently, Hon'ble High Court of Orissa vide their Order dated 02.05.2024 (Copy Enclosed in CONTC No. 2818 of 2024 arising out of W.A No. 1354 of 2022) (disposed of in view of a common order passed on the same date in W.A. No.810 of 2021 and Batch),



titled as **Sk. Anwar Ali Versus Dr. Anu Garg, IAS, Principal Secretary to Water Resources Department, Government of Odisha and Others**, have ordered as follows:

“3. It is not in dispute that an SLP has been preferred by the State of Odisha against the said Division Bench judgment dated 25.09.2023 passed in W.A. No.810 of 2021 and batch (State of Odisha & others Vrs. Bindusagar Samantray).

4. Learned counsel appearing on behalf of the petitioner has submitted that no interim order has been passed by the Supreme Court on the appeal preferred by the State of Odisha, and therefore, disobedience of this Court’s order dated 25.09.2023 is deliberate.

5. Be that as it may, since the contemnors have approached the Supreme Court against an order, violation of which has been alleged in the present contempt petition, we are of the view that no case of deliberate disobedience of the said order of the Court is made out.”

The aforesaid order provides relief to the Government Authorities, especially when an appeal is pending before the Superior Court, from Personal Appearance and contempt. However, such relief is applicable only and only if an appeal/SLP has been filed in the Superior/Supreme Court and the SLP number has been obtained as a proof of such filing.



In light of the above observation and Order dated 02.05.2024 passed by the Hon'ble Court of Orissa and as a precautionary measure, it is hereby advised as follows:

1. The Administrative Departments shall take all steps and ensure filing of Special Leave Petitions, where-ever felt necessary to protect Government interest, by way of challenging the Order of Hon'ble High Court of Orissa. This should be done well within the time as stipulated in the Limitation Act, 1963.
2. In the event of any delay in filing or non-filing of the appeal/ Special Leave Petition, where-ever deemed necessary to protect the interest of the State Government, responsibility shall be fixed on the official(s) attributing to such delay or non-filing.
3. In case, the Law Department, Government of Odisha fails to examine and provide opinion within time as to filing of Special Leave Petition or otherwise, without any justifiable reason, then responsibility shall be fixed on the erring official(s) as well.
4. Your kind attention is drawn to Paragraph VI (F) of the State Litigation Policy notified by the Law Department, any notice relating to any litigation received either from the citizen or Hon'ble Court/ Tribunals or any other quasi-judicial authority shall be marked to the Legal Cell immediately who in their turn will coordinate with the concerned section for relevant information, comments and documents and **only in case of need will refer to the Law Department for opinion.**



On receipt of any such reference, the Law department shall immediately act and examine the merit or otherwise of the case in going ahead with an Appeal/Writ/SLP with constant coordination with the Legal Cell of the Administrative Department. The decision of the Government in Law department shall be communicated to the Administrative Department preferably within 15 days. In cases of conscious and intentional action of causing delay in order to extend undue advantage to the adversary of the case is noticed, the authority shall take apposite action against the erring officer. **The interest of the State shall in that event be of paramount consideration.**

5. In cases which are heard and disposed in batch, only one physical file may be sent to the Law Department. Law Department shall make all endeavours to examine and provide the opinion well within time. Further, in the rest of the cases, opinion shall be obtained through the means of OSWAS File.
7. The above instructions may be complied, with utmost urgency.



**Additional Chief Secretary
GA & PG Department**



IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.2818 of 2024

SK. Anwar Ali

....

Petitioner

Mr. Dillip Ray, Advocate

-versus-

***Dr. Anu Garg, I.A.S, Principal
Secretary to Water Resources
Department, Govt. of Odisha and
others***

....

***Opposite
Parties/Contemnors***

Mr. Lalatendu Samantray, Addl. Govt. Advocate

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN**

**Order No.
01.**

**ORDER
02.05.2024**

This matter is taken up through Hybrid Mode.

2. The petitioner, in the present contempt petition has alleged disobedience of an order dated 25.09.2023, whereby W.A. No.1354 of 2022 came to be disposed of in view of a common order passed on the same date in W.A. No.810 of 2021 and Batch.
3. It is not in dispute that an SLP has been preferred by the State of Odisha against the said Division Bench judgment dated 25.09.2023 passed in W.A. No.810 of 2021 and batch (*State of Odisha & others Vrs. Bindusagar Samantray*).
4. Learned counsel appearing on behalf of the petitioner has submitted that no interim order has been passed by the Supreme



Court on the appeal preferred by the State of Odisha, and therefore, disobedience of this Court's order dated 25.09.2023 is deliberate.

5. Be that as it may, since the contemnors have approached the Supreme Court against an order, violation of which has been alleged in the present contempt petition, we are of the view that no case of deliberate disobedience of the said order of the Court is made out.

6. This contempt petition is, accordingly, disposed of with a liberty to the petitioner to approach this Court again at appropriate time.

(Chakradhari Sharan Singh)
Chief Justice

(M.S. Raman)
Judge

Suchitra/Aswini