

WPC PIL 11180 OF 2014 LINK

JICA L&T

Court seeks sewerage project agreement

LALMOHAN PATNAIK

Cuttack, Oct. 27: Orissa High Court today sought the agreement on the basis of which construction of the Japan International Cooperation Agency (Jica)-funded integrated sanitation project has been undertaken by Larsen & Toubro (L&T) in the city.

The court issued the direction in response to a PIL alleging deterioration in the condition of roads, traffic chaos and unsafe condition for commuters in different parts of Cuttack because of the project work for a comprehensive sewerage in the city for collection and disposal of waste water.

The state-of-the-art sewerage project is a massive enterprise with an underground gravity sewer line 375 km long, 29 pumping stations, three sewage treatment plants and rejuvenation or reconstruction of 23km of the existing two main storm water drains.

Social activist Jayanti Das, 52, filed the petition seeking direction for formation of a committee to monitor execution of the project to check laxity and ensure timely restoration of roads damaged by the construction work.

“The division bench of Chief Justice Amitava Roy and Justice A.K. Rath, before which the petition came up today, adjourned the matter for hearing along with the terms of the agreement. Accordingly, the bench directed the counsel who appeared on behalf of L&T to submit a copy of the agreement on the basis of which the company had undertaken the project work,” petitioner counsel B.K. Ragada said.

The petition alleged that roads are dug up in the evening and left like that. This poses a threat to the safety of people and animals.

There are no proper lights where the roads are closed. Sand, stone chips and huge iron structures are left on the roads for months together. These problems are neither being addressed by the police nor the Jica authorities, the petition alleged.

The project, which is being implemented by Odisha Water Supply & Sewerage Board (OWSSB), has been delayed by a year and the cost has gone up from Rs 754.44 crore to over Rs 2,500 crore.

The deadline for this project has now been set for July 2016.

Once complete, the city will not only get a separate drainage system for the first time, but the

quality of water in the nearby rivers will also improve.

HC breather for sewerage job

LALMOHAN PATNAIK

Workers execute the Japan International Cooperation Agency-funded sewerage work in Cuttack. Telegraph picture

Cuttack, Dec. 1: Orissa High Court has refused to conclude on the manner in which the sewerage system project is being executed in the city.

Larsen & Toubro is executing the Japan International Co-operation Agency-funded project.

A PIL had sought direction for formation of a committee to check laxity and ensure timely restoration of roads damaged during the project job.

The petitioner, Jayanti Das, 52, a social activist, also sought direction for formation of a contingency fund of 20 per cent of project cost by the company and regulated by the court to intervene in cases of damages caused due to the work.

“It is too early to come to a definite finding that the company is not executing the work in a proper perspective,” the division bench of Chief Justice Amitava Roy and Justice A.K. Rath observed in its order.

The court, however, has directed the company to take precautionary steps for safety of the public while executing the project, which involves construction of an underground gravity sewer line with a length of 375km and 29 pumping stations for collection and disposal of waste water.

The petitioner had alleged deterioration in condition of roads, traffic chaos and unsafe condition for commuters in various parts of Cuttack following the project work.

The court had closed hearing on the petition on November 17 without any immediate judgment. Subsequently, verdict on the petition followed, but it was not pronounced in the open court.

The company had undertaken the sewerage job through the Odisha Water Supply and Sewerage Board. According to the pact drawn up with the board on January 31, 2013, the company is to complete the project in 36 months.

The court, however, acknowledged that it was a big project, and at the time of its execution, people faced difficulties.

Taking note of the company's counter affidavit, the court, however, felt that the company had taken sufficient steps to avoid accident, for awareness and deployed its personnel at the working site.

“But one fact cannot be lost sight of. At the time of construction, the company used to dig holes. If an untoward incident happens, life will be lost. To avoid the said untoward incident, we direct, that, apart from providing required number of display boards pertaining to diversion of traffic at the working sites, steps should be taken for proper illumination during night and provide sufficient number of security personnel to avoid traffic congestion,” the bench said in its order while disposing of the petition.

The court also ordered for sufficient precautionary steps to check waterlogging.

The project also involved storm water drainage work to remove the problem in the city.

The petition had alleged that roads were dug up in the evening and left without filling them up, posing threat to safety of people and animals.

No proper illumination is given where roads are closed. Sand and stone chips, along with huge iron structures, have been left on the public road for months together. But, the problems are neither being addressed.

<https://indiankanoon.org/doc/27679417/>

Orissa High Court

Smt. Jayanti Das vs State Of Odisha & Others on 17 November, 2014

HIGH COURT OF ORISSA: CUTTACK.

W.P(C) No.11180 of 2014

In the matter of an application under Articles 226 and 277 of the Constitution of India.

Smt. Jayanti Das	Petitioner
Versus		
State of Odisha & others	Opp. Parties

For Petitioner : Mr. L.N.Patel, Advocate

For Opp. Parties : Mr.J.Katikia, Advocate

(O.P-5)

Mr.R.K.Mohapatra Govt. Advocate

P R E S E N T:

THE HON'BLE CHIEF JUSTICE MR. AMITAVA ROY

AND THE HON'BLE DR. JUSTICE A.K.RATH Date of hearing: 17.11.2014 Date of Judgment: 17.11.2014

Dr. A.K. Rath, J. Alleging several illegalities and irregularities committed by Larsen & Tubro Limited (hereinafter referred to as "the L&T Company") in constructing sewerage works at Cuttack town, the petitioner, who is a public spirited person, has filed this writ petition.

2. Adumbrated, in brief, the case of the petitioner is that the Commissionerate of Police has not kept a vigil on the functioning of L&T Company, which is the authorized contractor of Japan International Cooperation Agency (in short, "the JICA"), resulting in the public inconveniences.

The petitioner made an application under the Right to [Information Act](#) on 26.4.2014 seeking information from the Deputy Commissioner of Police, Cuttack about the permission granted by the police to JICA and the role and responsibilities of the Commissionerate of Police regarding maintenance of law and order and traffic jam. The reply given by the Assistant Commissioner of Police (Traffic) reveals that the L&T Company, opposite party no.5, flouted the permission granted by the police. It is further stated that neither the L&T Company nor the Commissionerate of Police so also the contractors, who are engaged for construction work of JICA project, have not taken into consideration the problem faced by the people of Cuttack city. In fact in para-7 of the writ petition, the petitioner has given a vivid detail of the illegalities and irregularities committed by the aforesaid agency. With the factual scenario, the petitioner has prayed, inter alia, to stop the project work of JICA in Cuttack city in monsoon season, cover all ditches/holes made by JICA before monsoon every year for public safety, to constitute a committee to look into the affairs of the JICA project and to formulate a contingency fund of L&T Company which shall be 20% of the project cost in the event of any damage or untoward incident caused due to project.

3. Pursuant to issuance of notice, a detailed counter affidavit has been filed by the opposite party no.5. The sum and substance of the case of the opposite party no.5 is that JICA is a funding agency. The said agency is funding through Government of India to the Orissa Integrated Sanitation Improvement Project (hereinafter referred to as "the OISIP") to execute three types of works in Cuttack city, such as, (I) Sewerage works, (II) Drainage works, and (III) Sewage Treatment Plant (in short, "the STP"). The sewerage works have been undertaken by the L&T Company through Odisha Water Supply & Sewerage Board (hereinafter referred to as "the OWSSB") whereas drainage works have been undertaken by the Tania & Voltas and STP is carried out by VA Tech and Wabag. All the construction activities with regard to sewerage works are being executed through trained safety security staffs and supervised by efficient trained personnel. The motto of L&T Company is to execute the challenging job of sewerage works in the clumsy Cuttack city with all oddities and no inconvenience to the general public. The L&T Company has sacrosanctly adhered to the terms and conditions and taken all precautionary measures as per the permission letter received from the Assistant Commissioner of Police (Traffic). Before granting permission, the traffic officials visited the site, confirmed the precautionary measures to be taken at the time of execution of the work at a particular site. The L&T Company has got necessary traffic diversion road permission and installed the sign boards, which indicate the nature of work and the precautionary measures to be taken. The required numbers of stoppage boards have been submitted during execution and the proper

illumination is ensured during night works. The security and safety personnel are available for diversion of traffic and traffic management. Traffic wardens are also available at the site. The L&T Company also obtains road cutting permission before execution of the work at any site. The required numbers of security personnel have been deployed for execution of sewerage work. The work is being carried out on round the clock basis and security personnel also working round the clock in shifts. The Traffic Department has also deployed required number of staff from their end and L&T Company has also deployed sufficient traffic personnel as instructed by the Traffic Police Department. The L&T Company obtains necessary permission to dig the roads and carries out the same in accordance with the terms and conditions. After obtaining permission, public notice had been issued to the Traffic Department in shape of advertisements in different newspapers including "The Samaj" making aware of the general public about the sewerage works undertaken by the L&T Company. The locations where the night work is being carried out, the L&T Company provides proper illumination for smooth traffic movement. The security personnel have been deployed by the L&T Company for smooth traffic management. The public grievance cells have been made functional in coordination with the Cuttack Municipal Corporation for proper coordination between the public and the L&T Company. The general public are regularly being made aware about the short term inconvenience for execution of the work. Duration of the work has been intimated to the department. The L&T Company personnel with required qualifications and ample experience are deployed at all work sites and monitored by the experienced Senior Managers. The decisions are taken by all such officials and employees of the L&T Company at the site for the respective portion of the work. The materials required for particular stretch of work are mobilized at the site and as and when the work is completed, left out materials are shifted to the next working location. Considering the condition of the work place, three big stockyards on the outskirts have been kept reserved to keep the materials which are brought to the work location only when the same is required. The minimum construction materials are stacked at the work site to reduce the public inconvenience. The usual works are being executed during day shift and as and when required trained personnel are left work in the night shift. Care is taken to close the open trenches before closing of the day. Proper barricading, displaying sign/diversion boards to prevent accident at night are carefully ensured. The L&T Company has been following all the instructions in letter and spirit including the road safety and traffic. The Traffic Department, time and again, is checking the functioning of the L&T Company. Further, the L&T Company has been operating a public grievance cell in coordination with the Cuttack Municipal Corporation since May, 2014. The L&T Company has also organized road safety awareness programme for the public and also set up Jalachhatra Kendra during summer

season. The L&T Company has kept the required cautioning boards. As per the requirement, the local people are engaged according to the eligibility and qualification with a view to give employment. It is further stated that the work at Mahammadia Bazar was started in the month of November, but due to local procession and local interference, the works could not be completed within forty five days for which the L&T Company had to close the construction activities. As the work could not be restarted for a period of five months ahead of pre-closer, the road was restored and the same will be started after monsoon. The L&T Company constructed the road at limited location during monsoon to ensure that there is no water logging. The JICA is also executing storm water drainage work to remove water logging for Cuttack city which is to be made operative. In monsoon, the L&T Company is taking sincere steps to close the existing ditches. Various public awareness programmes have been conducted across the city. It is further stated that steps have been taken by the L&T Company to close the existing ditches to avoid water logging during monsoon.

4. The Cuttack is a millennium city. It has several problems. The conditions of the road and drain in most part of the city are in deplorable condition for which in some parts of the city, the people are living in an unhygienic condition. There is no water sewerage treatment plant. To obviate these difficulties, JICA is funding through Government of India to the OISIP to execute three types of works in Cuttack city. The sewerage work is being undertaken by L&T Company through OWSSB. The agreement dated 30.01.2013 entered into between the OWSSB and L&T Company shows that the work is to be completed within 36 months. It is a big project. At the time of execution of the work, people face immense difficulties. As would be evident from the contents of the counter affidavit, sufficient steps have been taken by the L&T Company to avoid the accident. The L&T Company has also conducted several awareness camps and deployed its personnel at the working site to prevent any untoward incident. Thus it is too early to come to a definite finding that L&T Company is not executing the work in a proper perspective. But then, one fact cannot be lost sight of. At the time of construction, the L&T Company used to dig holes. If an untoward incident happens, then precious life will be lost. To avoid the said untoward incident, we direct that, apart from providing required number of display boards pertaining to diversion of traffic at the working sites, the opposite parties shall also take steps for proper illumination during night and provide sufficient number of security personnel to avoid traffic congestion. We further direct the opposite parties to take sufficient precautionary steps to avoid water logging during monsoon.

With the aforesaid direction, the writ petition is disposed of.

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DR. A.K.RATH, J.

AMITAVA ROY, C.J. : I agree.

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AMITAVA ROY, C.J Orissa High Court, Cuttack.

The 17th November, 2014/pks