

(2008) 04 OHC CK 0075

In the Orissa High Court

Case No : Writ Petition (C) No. 2884 of 2008

Bichitra Narayan Satapathy and Others

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 15-04-2008

Acts Referred:

Citation : (2008) CLT 851 (Suppl CrI)

Hon'ble Judges : A.K. Ganguly, C.J;B.N. Mohapatra, J

Bench : Division Bench

Judgement

1. Pursuant to our previous order the Superintendents of Police of Ganjam and Sambalpur have appeared in person.
2. Heard Petitioner No. 1 in person and the Learned Advocate General.
3. The Court has also perused the reports, which have been submitted by the District Judges of Ganjam and Sambalpur pursuant to the direction of this Court.
4. From the report of the District Judge, Ganjam, Berhampur dated 27.2.2008 it appears that the judicial work at Berhampur has virtually come to a stand-still position for last three months and the litigant public and the under-trial prisoners are suffering a lot. It has also been reported by the District Judge, Ganjam that unless the matter is taken up with the State Government with the help of local police administration without causing any serious law and order problem, the Courts at Berhampur cannot be opened. It also appears from his report that the members of the Berhampur Bar are divided. But some how or other ignoring the request made by the District Judge the agitating lawyers have not allowed the Courts to function at Berhampur.
5. A detailed report has been given by the District Judge, Berhampur about the manner in which the judicial officers were prevented. The report given by the District Judge, Ganjam-Gajapati, Berhampur discloses a very sorry state of affairs. This Court, therefore, directs the Superintendent of Police, Ganjam, who

is present before this Court, to ensure that all the Courts in Berhampur are allowed to function. For the said purpose, the Police authorities are directed to remove the agitating lawyers and outsiders, who are preventing regular entry of Judicial Officers, the litigants or willing lawyers to different Courts in the district of Ganjam. This Court is of the opinion that whatever may be the reason for which the lawyers are making their agitation, the Courts which are established for redressing the grievance of the citizens of this country cannot be locked up or stepped from functioning. Functioning of Courts is contemplated in the Constitution is a part of the Rule of Law. Therefore, when the agitating lawyers prevent functioning of a Court, they are virtually acting contrary to the Constitution.

6. In the case of Ex-Capt. Harish Uppal v. Union of India and Anr., reported in AIR 2003 SC 739, a Constitution Bench of the Hon"ble Supreme Court has held that a strike call or boycott call by the lawyers amounts to an act of contempt and it has also been held that the Bar Council has a role in the matter and it is the duty of the Bar Council to ensure that there is no unprofessional or unbecoming conduct. Therefore, there cannot be any valid reason for the lawyers to call a strike or any boycott. It has been said that in the rarest of rare cases when the lawyers contemplate such a they must take the Chief Justice of the High Court or the District Judge into confidence before they decide to absent themselves from Court. In the instant case, the so called strike of lawyers has paralyzed the functioning of Courts in Berhampur for three months and this Court which is in charge of the judicial administration of the State cannot sit idle. This Writ Petition has been filed in the nature of a PIL. As such, this Court directs the Superintendent of Police, Ganjam to take effective and preventive steps so that the lawyers or other picketers cannot prevent functioning of the Courts in Berhampur. This Court, however, makes it clear that in discharge of their duty the police officers shall apply the minimum force which is required for allowing entry of the judicial officers, litigants and the willing lawyers in the Court premises.

7. Similar report has also been received from the District Judge, Sambalpur. We are giving similar directions to the Superintendent of Police, Sambalpur, who shall ensure that the lawyers are prevented from obstructing either the judicial officers or the members of the litigant public or the willing lawyers from entering into the Court premises. The Police Officers must ensure that the judicial officers are allowed to enter inside the Court premises and proceed with the Court work so that the Courts function. We also make it clear that in discharge of their duties the Police Officers shall use the minimum force which is required.

8. A copy of this order may be made over to the Superintendent of Police of Ganjam and Sambalpur by the registry of the Court by tomorrow (16-4-2008). Free copy of this order may also be given to the Learned Government Advocate.

9. We are impleading the President of District Bar Association, Ganjam and the President of District Bar Association, Sambalpur as Opposite Party Nos. 9 and 10

in this PIL. Copies of the Writ Petition along with the copies of reports be served upon them at the cost of the registry of the Court by 22.4.2008. They are directed to file their affidavits by 6.5.2008.

10. The matter will appear in the list on 12.5.2008.

11. This Court also makes it clear that all the Judicial Officers in the aforesaid two districts should enter their office and the Courts and do their judicial work by going through the records, even if they are not assisted by the lawyers. The Judicial Officers are to follow the principles laid down by the Supreme Court in Ex Captain Harish Uppal's case referred to above.

12. Personal attendance of the Superintendents of Ganjam and Sambalpur is dispensed with.

13. Direction issued case posted to 12.5.08 for further order