

**A.F.R.**

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.1373 of 2025

Along with

CONTC No.801 of 2025

(In the matter of an application under Articles 226 and 227 of the Constitution of India, 1950).

*Kumarpur Sasan Juba Gosti Kendra
& Ors.
(in both the Petitions)*

Petitioner(s)

-versus-

State of Odisha and Ors.

....

Opposite Party (s)

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s)

:

Mr.Ninad Laud, Adv.

Along with

Mr. L. K. Moharana, Adv.

For Opposite Party (s)

:

Smt. J. Sahoo, ASC

CORAM:

DR. JUSTICE S.K. PANIGRAHI

DATE OF HEARING:-04.04.2025

DATE OF JUDGMENT:-20.06.2025

Dr. S.K. Panigrahi, J.

1. Since both the cases are interlinked, both the cases are being heard and disposed of together. However, this Court feels it appropriate to



treat W.P.(C) No.1373 of 2025 as the leading case for proper adjudication of both the matters.

2. In this Writ Petition, the Petitioners seek a direction to declare the demolition of the community structure as illegal, order its reconstruction at State expense, award compensation for loss and hardship suffered, and initiate proceedings against officials responsible for violating binding judicial orders and constitutional safeguards.

I. FACTUAL MATRIX OF THE CASE:

3. The brief facts of the case are as follows:
 - (i) The dispute pertains to a structure known as 'Gosthigruha' or Community Centre, constructed on a portion of land measuring Ac. 0.05 dec out of a total of Ac. 1.87 dec, classified as Gochar (grazing) land under Khata No. 616, Plot No. 1261, located at Mouza: Balipur, Tahasil: Athagarh, District: Cuttack.
 - (ii) This land is recorded in the name of *Rakhita Anabadi* and falls under the *Odisha Prevention of Land Encroachment Act, 1972* (OPLE Act). According to the petitioners, the structure existed in some form since 1985, repaired post-cyclone in 1999, and was reconstructed in 2016-18 using public funds sanctioned under the "Ama Gaon Ama Vikas Yojana" and the MLA-LAD fund.
 - (iii) The community centre was used by villagers for public utility purposes, including awareness drives, yoga camps, health check-ups, and government outreach programmes. The land, though classified as



- Gochar, was neither objected to by authorities at the time of construction nor encroached forcibly. Villagers expressed willingness to exchange homestead land in lieu of the Gochar portion used.
- (iv) In July 2024, encroachment proceedings were initiated under the OPLE Act via Notices dated 26.07.2024 in Encroachment Cases No. 111 and 113 of 2024-25. Petitioners challenged the proceedings by filing W.P.(C) Nos. 19449/2024 and 19450/2024, which were disposed of by the Hon'ble High Court on 16.08.2024, directing the Petitioners to file an application for settlement under Section 8A of the OPLE Act.
- (v) The said application was filed on 03.09.2024 and was rejected on 30.09.2024 citing lack of documentary proof of continuous possession, inauthenticity of resolutions, non-compoundability of the land category, and absence of registration.
- (vi) The rejection was followed by an appeal before the Sub-Collector in Encroachment Appeal Nos. 26 & 27 of 2024, and simultaneously W.P.(C) Nos. 29185 and 29258 of 2024 were filed. On 29.11.2024, the High Court directed that no eviction shall take place during the pendency of the appeal.
- (vii) Despite the order, a new eviction notice dated 05.12.2024 was issued, prompting the Petitioners to approach the High Court again in W.P.(C) Nos. 31269 and 31279 of 2024. On 13.12.2024, the High Court reiterated its stance, restraining eviction during the pendency of the appeals.
- (viii) On the same day (13.12.2024), the Sub-Collector concluded the hearing and allegedly reserved orders in the appeal around 4 PM.



However, at approximately 5.15 PM, a demolition notice was affixed, indicating that the structure would be demolished the next morning (14.12.2024).

- (ix) On 14.12.2024 at 10:00 AM, the structure was demolished, allegedly without affording the Petitioners adequate time to challenge the order or vacate the premises.
- (x) The Petitioners allege that the actions of the revenue authorities violated the binding directions issued by the Hon'ble Supreme Court in *In Re: Directions in the matter of demolition of structures, WP(C) No. 295/2022*¹, specifically:
 - a. No 15-day show cause notice was issued.
 - b. No reasoned demolition order was provided explaining why lesser alternatives were not explored.
 - c. Petitioners were not afforded the mandatory appellate opportunity.
 - d. The demolition was not video graphed, nor was a demolition report prepared.
 - e. There was no opportunity for personal hearing, and statutory procedures such as intimation to the Collector, uploading to a public portal, and Panchanama inspection reports were allegedly skipped.
- (xi) In view of the foregoing, the Petitioners pray that this Court declare the demolition of the community structure as illegal and void ab initio; direct the restitution and reconstruction of the demolished

¹W.P.(C) No. 295/2022.



structure at the personal cost of the concerned officers responsible for the unlawful action; award compensation to the tune of Rs. 1 crore for the mental agony, reputational damage, and litigation expenses incurred by the Petitioners; and initiate contempt proceedings against the officials involved for wilful disobedience of the binding directions issued by the Supreme Court in W.P.(C) No. 295/2022.

II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

4. Learned counsel for the Petitioners earnestly made the following submissions in support of his contentions:
 - (i) The demolition of the structure was allegedly in flagrant violation of the Supreme Court's directions in WP(C) No. 295/2022, which explicitly mandates procedural safeguards like show cause notice, hearing, recording of reasons, waiting period, and transparency. The demolition with just 17 hours' notice of intimation, without a prior show cause notice, is claimed to be unlawful.
 - (ii) Petitioners emphasize that the High Court had, on multiple occasions (29.11.2024 and 13.12.2024), directed that no coercive action shall be taken during pendency of appeal. The demolition carried out just hours after reserving the appeal orders is submitted to be a wilful breach of these judicial directions.
 - (iii) Petitioners assert that by immediately acting upon the rejection of the appeal (assuming it was even pronounced), they were denied the statutory right to prefer revision under Section 12(2) of the OPLE Act and the 15-day appellate period prescribed by the Hon'ble Supreme Court.



- (iv) The Petitioners submit that the haste, secrecy, and sequence of events surrounding the demolition indicate premeditation, arbitrariness, and possible mala fides on the part of revenue authorities, including acting in concert to pre-empt legal remedies.
- (v) The entire process is alleged to be in violation of constitutional guarantees, including the rule of law and principles of natural justice, particularly the right to be heard and to seek redressal against state action.
- (vi) Petitioners argue that State actors, including Tahasildar and Sub-Collector, are under a constitutional obligation to act fairly, transparently, and within the bounds of law. The action, if found unlawful, not only vitiates procedural propriety but also attracts personal liability under paras 93-94 of the Supreme Court's judgment.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

- 5. The Opposite Parties contend that the structure in question was an unauthorized encroachment on Gochar land, recorded as Rakhita Anabadi, and despite being given opportunities under the OPLE Act, the Petitioners failed to establish any legal right or valid possession; thus, the demolition was a lawful enforcement action carried out in accordance with statutory powers.

IV. COURT'S REASONING AND ANALYSIS:

- 6. Heard Learned Counsel for parties and perused the documents placed before this Court.
- 7. The core grievance of the Petitioners arises from the demolition of a long-standing community structure, a *Gosthigruha*, standing on



Gochar land, alleged to have been executed without adherence to procedural safeguards mandated by law, and in open defiance of this Court's own interim orders dated 29.11.2024 and 13.12.2024.

8. The facts are largely undisputed. The Petitioners had been in occupation of the land in question for over three decades. The structure had received government-sanctioned funds for reconstruction and was used for community and welfare purposes. The record reflects that encroachment proceedings were initiated in July 2024, followed by an application under Section 8A of the OPLE Act which was rejected. An appeal was preferred and was pending as of 13.12.2024, the day the demolition notice was affixed. The demolition was carried out within 17 hours on the morning of 14.12.2024.
9. This sequence of events raises not just concerns of administrative lapse, but of deeper institutional failure. An act as final and irreversible as demolition was carried out despite two standing judicial directions, and without even the most basic procedural safeguards mandated by the Supreme Court in *In Re: Directions in the matter of demolition of structures (W.P.(C) No. 295 of 2022, decided on 13.11.2024)* (Supra).
10. The Supreme Court in that case, invoking Article 142, issued mandatory directions, inter alia, that no demolition shall take place without:
 - a. a 15-day show cause notice,
 - b. a reasoned order explaining why demolition is the only option,



- c. a fair opportunity for appellate and judicial scrutiny,
- d. video documentation of the act of demolition,
- e. and uploading of all notices and orders on a digital portal for transparency.

None of these conditions were fulfilled in the present case.

11. What makes the episode all the more concerning is not merely the breach of procedural safeguards, but the deeper disregard to constitutional process and institutional boundaries. The demolition did not occur in a moment of administrative necessity. It was not the outcome of a duly completed adjudicatory process. It was carried out while the matter was still under active judicial consideration, with the appellate authority having reserved its decision. No final order had been pronounced.
12. This is not a procedural misstep. It reflects a troubling pattern, where the machinery of the State appears to act not in aid of the law, but in anticipation of avoiding its outcome. The space between a matter being heard and a decision being delivered is not an empty procedural formality. It is a phase in which the law is still at work. The authority of the appellate forum does not vanish simply because it is silent for a moment. That silence is deliberate. It reflects the court's duty to think, not the executive's opportunity to act.
13. When the State proceeds to demolish a structure in that window, knowing that the order has not yet been passed, knowing that judicial scrutiny is underway, it raises a serious concern. This is not how institutions committed to constitutional governance are expected to



behave. There must be clarity on this point. Acting while an order is reserved is not simply premature. It is, in substance, an attempt to outpace the law itself. That cannot be condoned.

14. What is even more troubling is that the consequences of such executive haste are not merely institutional or procedural, they are deeply human. Law is not merely a tool to regulate action; it is also a shield against arbitrary force. When the State fails to pause where law requires stillness, it is not only the structure that is lost, but the trust of those whose rights depend on the process being fair and complete. This case, therefore, cannot be assessed solely through the lens of administrative law. It must also be understood as an instance where a constitutionally protected interest in property was extinguished not through judicial determination, but through executive fiat.
15. Forcible dispossession of a person from their property, without adherence to due process of law, constitutes not only a violation of their constitutional right under Article 300-A but also an affront to basic human rights. In this regard, the Supreme Court in the case of *N. Padmamma v. S. Ramakrishna Reddy*² held as follows:

“21. If the right to property is a human right as also a constitutional right, the same cannot be taken away except in accordance with law. Article 300-A of the Constitution protects such right. The provisions of the Act seeking to divest such right, keeping in view of the provisions of Article 300-A of the Constitution of India, must be strictly construed.”

² (2008) 15 SCC 517.



16. This observation reinforces a fundamental principle: the protection under Article 300-A is not merely procedural but substantive in nature. It draws a constitutional boundary around the exercise of state power over property. The point finds further elaboration in the reasoning adopted by the Supreme Court in *Jilubhai Nanbhai Khachar v. State of Gujarat*³, where the requirement of a statutory foundation for any such deprivation was categorically affirmed:

“48. ... In other words, Article 300-A only limits the powers of the State that no person shall be deprived of his property save by authority of law. There has to be no deprivation without any sanction of law. Deprivation by any other mode is not acquisition or taking possession under Article 300-A. In other words, if there is no law, there is no deprivation.”

17. What is at stake here is not the legality of one demolition, but the integrity of a constitutional culture. When executive action arrogates to itself the role of judge, jury, and executioner, the harm that follows is not merely institutional, it is civic. In a democratic society governed by the rule of law, process is not an inconvenience to be bypassed when found burdensome. It is the very architecture that lends legitimacy to State action. The moment that process becomes expendable, so does the public's faith in the neutrality of governance. This Court is duty-bound to restore that balance, for what is lost here is not only a building, but also the belief that law is a shield against arbitrariness.

³ 1995 Supp (1) SCC 596.



18. The demolition of the *Gosthigruha* may be defended by the State as an act of regulatory enforcement, but the Court finds no such legitimacy in its execution. The speed and secrecy with which it was undertaken, in open defiance of judicial restraint, gives the impression not of public administration but of covert operation. Structures built with public funds, maintained for public welfare, and functioning without any recorded opposition for decades, were reduced to rubble in a span of minutes, without affording even the courtesy of lawful procedure. It is not the structure alone that has been demolished. It is the dignity of law-abiding citizens who sought protection not through confrontation but through courts. The executive is not merely expected to enforce orders, it is expected to wait when courts ask it to pause. That pause was wilfully ignored.
19. This Court takes serious note of the conduct of the Tahasildar, whose actions in this case reflect a steady and conscious departure from the standards expected of a responsible public officer. When judicial directions were first issued, there was an opportunity to act with restraint and deference to the process of law. As the matter progressed and remained pending before the appellate authority, the expectation of caution became even more pressing. Yet, when the hearing concluded and the order was reserved, the Tahasildar proceeded not with circumspection, but with haste. The decision to carry out a demolition at that juncture cannot be explained as a procedural misstep. It was a deliberate act taken while judicial consideration was still underway.



20. The office of the Tahasildar is not a mere administrative post. It is a position that carries the weight of constitutional responsibility, particularly when it comes to enforcing the law at the ground level. To act in a manner that anticipates and potentially frustrates the outcome of pending legal proceedings is a serious breach of duty. This Court cannot overlook the fact that the demolition was carried out not in compliance with the law, but in disregard of it, and such conduct undermines both the authority of the judiciary and the legitimacy of public administration.
21. The binding procedural safeguards laid down by the Supreme Court in *In Re: Directions in the matter of demolition of structures*(Supra), are not aspirational guidelines, they are enforceable mandates. The Supreme Court, invoking its power under Article 142, did not request compliance. It imposed it. These directives must be treated not as peripheral suggestions but as minimum constitutional thresholds. The failure to issue a 15-day show cause notice, the absence of a reasoned order, the denial of appellate remedy, and the lack of video documentation are not merely checklist oversights. They are compound violations that nullify the very idea of lawful governance. A Tahasildar who chooses to discard these procedural obligations in favour of expediency does not act on behalf of the State, he acts against it.
22. The Court notes with concern that such behaviour, if left unaddressed, could set a dangerous precedent, where field-level officers entrusted with significant statutory powers begin to treat



judicial timelines as administrative gaps to be tactically exploited. The conduct reflects a troubling pattern where legal process is treated as optional. Acting during the pendency of proceedings signals disregard for institutional boundaries. It reduces adjudication to an afterthought and weakens the authority of courts in matters where their oversight is critical. This Court must categorically disabuse any such notion. Officers acting in defiance of binding judicial norms are not performing their duty, they are undermining the very scaffolding of lawful Statehood.

23. In reinforcing this accountability, the Supreme Court in *Delhi Airtech Services Pvt. Ltd. v. State of U.P.*⁴, unequivocally affirmed that when executive action defies the twin pillars of *rule of law* and *separation of powers*, the doctrine of public trust is not merely implicated, it is triggered as a shield for the public interest. It held as follows:

“213. These authorities are instrumentalities of the State and the officers are empowered to exercise the power on behalf of the State. Such exercise of power attains greater significance when it arises from the statutory provisions. The level of expectation of timely and just performance of duty is higher, as compared to the cases where the power is executively exercised in discharge of its regular business. Thus, all administrative norms and principles of fair performance are applicable to them with equal force, as they are to the government department, if not with a greater rigour. The well established precepts of public trust and public accountability are fully applicable to the functions which emerge from the public servants or even the persons holding public office.

⁴ (2011) 9 SCC 354.



214. *In State of Bihar v. Subhash Singh [(1997) 4 SCC 430]*, this Court, in exercise of the powers of judicial review, stated that the doctrine of “full faith and credit” applies to the acts done by the officers in the hierarchy of the State. They have to faithfully discharge their duties to elongate public purpose.

215. The concept of public accountability and performance of functions takes in its ambit, proper and timely action in accordance with law. Public duty and public obligation both are essentials of good administration whether by the State or its instrumentalities. In *Centre for Public Interest Litigation v. Union of India [(2005) 8 SCC 202 : (2006) 1 SCC (Cri) 23]*, this Court declared the dictum that State actions causing loss are actionable under public law. This is a result of innovation, a new tool with the courts which are the protectors of civil liberties of the citizens and would ensure protection against devastating results of State action. The principles of public accountability and transparency in State action are applicable to cases of executive or statutory exercise of power, besides requiring that such actions also not lack bona fides. All these principles enunciated by the Court over a passage of time clearly mandate that public officers are answerable for both their inaction and irresponsible actions. If what ought to have been done is not done, responsibility should be fixed on the erring officers; then alone, the real public purpose of an answerable administration would be satisfied.

216. The doctrine of “full faith and credit” applies to the acts done by the officers. There is a presumptive evidence of regularity in official acts, done or performed, and there should be faithful discharge of duties to elongate public purpose in accordance with the procedure prescribed. Avoidance and delay in decision-making process in government hierarchy is a matter of growing concern. Sometimes delayed decisions can cause prejudice to the rights of the parties besides there being violation of the statutory rule.



217. This Court had occasion to express its concern in different cases from time to time in relation to such matters. In *State of A.P. v. Food Corporation of India* [(2004) 13 SCC 53 : 2006 SCC (L&S) 873], this Court observed that it is a known fact that in transactions of government business, no one would own personal responsibility and decisions would be leisurely taken at various levels.

218. Principles of public accountability are applicable to such officers/officials with all their rigour. Greater the power to decide, higher is the responsibility to be just and fair. The dimensions of administrative law permit judicial intervention in decisions, though of administrative nature, which are *ex facie* discriminatory. The adverse impact of lack of probity in discharge of public duties can result in varied defects, not only in the decision-making process but in the final decision as well. Every officer in the hierarchy of the State, by virtue of his being "public officer" or "public servant", is accountable for his decisions to the public as well as to the State. This concept of dual responsibility should be applied with its rigours in the larger public interest and for proper governance."

24. What this judgment makes clear is that public power carries with it a continuing duty of care. The law is not self-executing. It depends on officers who are expected to act with fairness, honesty and within the limits of their legal authority. The doctrine of public trust is not a decorative ideal. It is a binding obligation that requires those in office to treat their role as a public responsibility. When decisions are taken in haste, or authority is used without proper justification, the consequences are not merely administrative. They touch the core of democratic governance. The rule of law is sustained not only by enforcement but by trust. That trust is built slowly and can be lost



quickly. When it breaks, the harm is not always visible, but it runs deep. It affects not just the immediate parties but the public's confidence in institutions. This Court has a duty to uphold both the legal framework and the public belief that the law is a shield, not a weapon.

25. The facts of this case echo a growing and troubling pattern commonly referred to as “bulldozer justice”, where executive power, backed by machinery rather than reason, supplants legal process. The use of demolition as a tool of enforcement, absent procedural compliance and judicial finality, transforms what should be a lawful act into a coercive one. It is not the bulldozer per se that offends constitutional sensibilities, but the ease with which it is deployed before the law has spoken its final word. In a system governed by law, force must follow reason, not precede it. Where the reverse occurs, the legitimacy of State action begins to erode, and with it, the credibility of institutions tasked with upholding the rule of law.

V. CONCLUSION:

26. The Tahasildar has shown undue haste in demolishing the structure, without adhering to the guidelines issued by the Supreme Court of India. In determining the quantum of compensation, this Court has taken into account the nature and purpose of the demolished structure, the conduct of the authorities, and the attendant constitutional violations. The community centre in question, though modest in size, served as a vital public utility space, constructed through sanctioned public funds and used for welfare-oriented



functions such as health camps, government outreach, and awareness programmes. The demolition was not preceded by the mandatory procedural safeguards, and was carried out despite subsisting judicial orders restraining such action. The petitioners were compelled to engage in multiple rounds of litigation, incurring legal expenses and enduring mental distress. This Court is of the view that the breach of judicial directions and procedural obligations, coupled with the manner and timing of the demolition, warrants public law compensation.

27. Having regard to the cost of reconstruction, the loss suffered, and the gravity of administrative misconduct, compensation is assessed at ₹10,00,000. Of this, ₹2,00,000 shall be recovered from the Tahasildar concerned, to be deducted in reasonable instalments from his salary, given his direct involvement in the unlawful act. The balance amount of ₹8,00,000 shall be paid by the State to the Petitioner within a period of eight weeks from the date of presentation of this order.
28. Appropriate Departmental proceedings shall be initiated against the Tahasildar, and a copy of this judgment shall be placed before the Chief Secretary and Revenue Secretary for necessary compliance. It is further directed that the Chief Secretary shall immediately issue a detailed guidelines to all the Revenue officials and Municipal authorities of the State taking into account the guidelines issued by the Supreme Court in, In re: Directions in the matter of demolition of structures, W.P.(C) No.295 of 2022.
29. The Writ Petition is, therefore, allowed.



30. Consequently, the CONTC is disposed of being dropped.
31. Interim order, if any, passed earlier stands vacated.

(Dr.S.K. Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 20th June, 2025/*