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**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA .
ORIGINAL APPLICATION NO. 52 /2024/EZ.**

Biranchi Narayan Dash and

Others. Applicants.

Versus

Union of India and Others. Respondents.

I N D E X

Sl.No.	Description of documents.	Pages.
1.	Further affidavit filed by Respondent No.4. ..	1-3
2.	<u>Annexure-E/4</u> True copy of order passed in O.A.No.36/2021/EZ.	4-12
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6.	<u>Annexure-I/4</u> True copy of order passed in RVWPET No.382 of 2022.	- 18-

Cuttack

Dt. 08 .10 .2024.

hw
(Shakti Prasad Panda)
Addl.Govt.Advocate.

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**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA.
ORIGINAL APPLICATION NO. 52 /2024/EZ.**

Biranchi Narayan Dash and
Others. Applicants.

Versus

Union of India and Others. Respondents.

**ADDITIONAL AFFIDAVIT FILED BY COLLECTOR &
DISTRICT MAGISTRATE, NAYAGARH- RESPONDENT
NO.4.**

I, Sri Akshay Sunil Agrawal aged about 32years, S/o- Sri Sunil Agrawal at present working as Collector and District Magistrate, Nayagarh, At/P.O./Dist.- Nayagarh, Odisha do hereby solemnly affirm and state as follows:

1. That, the Respondent No.2 has filed counter affidavit before this Hon'ble Tribunal on 31.07.2024 which may be treated as part and parcel of this affidavit.
2. That in para-5 of the counter affidavit the orders passed in O.A. No.36/2021/EZ, W.P.(C) No.29891/2020 and W.P.(C) No.32482/2020, S.L.P.(Civil) No.35874 of 2022 and RVWPET No.382 of 2022 have been quoted therein as the legible copies of the said orders passed by the Hon'ble Courts orders are not available , the same could not be filed at the time of filing of counter affidavit. However, after obtaining the legible copies of the orders of the Hon'ble Courts, the same are filed herewith as **Annexure-E/4, F/4 , G/4, H/4 & I/4** respectively.



Akshay Sunil Agrawal
Collector & Dist. Magistrate
NAYAGARH

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3. That the contents of the above paragraphs are true and correct to the best of my knowledge, as derived from the official records, and that nothing material has been concealed there from.

Identified by:

Hemant Kumar Singh
TAHASILDAR
NAYAGARH

Akshay Sunil Agrawal
Deponent
Collector & Dist. Magistrate
NAYAGARH

VERIFICATION

I, Sri Akshay Sunil Agrawal aged about 32 years, S/o- Sri Sunil Agrawal at present working as Collector and District Magistrate, Nayagarh, At/P.O./Dist.- Nayagarh, Odisha do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge as derived from official records and that nothing material has been concealed there from.

Verified at Nayagarh on this ^{08th} day of October'2024.

h
ODISHA
P. K. Murta
Nayagarh
Regd. No-
028-5512012
GOVT. OF ODISHA

Akshay Sunil Agrawal
VERIFICANT
Collector & Dist. Magistrate
NAYAGARH

X

AFFIDAVIT.

I, Sri Akshay Sunil Agrawal aged about 32years, S/o- Sri Sunil Agrawal at present working as Collector and District Magistrate, Nayagarh, At/P.O./Dist.- Nayagarh, Odisha do hereby solemnly affirm and state as follows:-

1. That I am the Respondent No.4 in this case. I am well acquainted with the facts of the case and as such competent to swear this affidavit in my official capacity.

That the facts stated above are true to the best of my knowledge and based on official records.



hw

Identified by:

Hanant Kumar Singh
**TAHASILDAR
NUAGAON**

Akshay Sunil Agrawal
Deponent.

Collector & Dist. Magistrate
NAYAGARH

Before me,

[Signature]
10.11.2024

Pratap Kumar Mishra
Notary Public
Nayagarh



ANNEXURE-E/4

- X -

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
KOLKATA**

ORIGINAL APPLICATION No. 36/2021/EZ

IN THE MATTER OF:

1. Ladukishore Sarangi,
S/o Late Satyabadi Sarangi,
Village: Mahitama, P.O. Korada,
District-Nayagarh, State of Odisha,
2. Harikrushna Sahoo,
S/o Purna Chandra Sahoo,
Village-Mahimata, P.O.-Korada,
District-Nayagarh, Odisha,
3. Radhamohan Sahoo,
S/o Gti Sahoo,
Village-Mahimata, P.O.-Karoda,
District-Nayagarh, Odisha,
4. Brajabandhu Sahoo,
S/o Panchanan Sahoo,
Village-Mahimata, P.O.-Karoda,
District-Nayagarh, Odisha,
5. Sarat Kumar Patra,
S/o Mahadev Patra,
Village-Mahimata, P.O.-Karoda,
District-Nayagarh, Odisha,

....Applicant(s)

Versus

1. State of Odisha,
Through Chief Secretary,
General Administration Department,
Odisha Secretariat , Bhubaneswar,
Pin - 751001,


**TAHASILDAR
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- 2. Ministry of Environment, Forest and Climate Change,
Eastern Regional Office,
Residential Quarters, A/3, Chandrasekharpur,
Bhubaneswar - 751023,
- 3. Forest and Environment Department,
Through Secretary,
Govt. of Odisha,
Kharavel Bhavan,
Bhubaneswar, Odisha,
- 4. Collector and District Magistrate, Nayagarh,
Office of the Collector and District Magistrate,
Nayagarh,
- 5. Divisional Forest Officer, Nuagaon,
District-Nayagarh, Odisha,

....Respondent(s)

COUNSEL FOR APPLICANT:

Mr. Biswaranjan Paramguru, Advocate

COUNSEL FOR RESPONDENTS :

Mr. S.K. Nayak, AGA for R-1,3,4 & 5,
Mr. Gora Chand Roy Choudhury, Advocate for R-2,

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)
HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)

Reserved On:- 5th January, 2022
Pronounce On:- 11th January, 2022

1. Whether the Judgment is allowed to be published on the net? **Yes**

2. Whether the Judgment is allowed to be published in the NGT Reporter? **Yes**

Abhinav
Collector & Dist. Magistrate
NAYAGARH

Abhinav
TAKASILDAR
NUAGAON


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JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

Heard the learned Counsel for the parties and perused the documents on record.

2. This Original Application has been filed by the Applicants with the allegation that the Respondent Nos. 1 to 3 are illegally clearing the naturally grown trees from the Revenue Forest Land on Plot No. 1, Khata No. 187, Mouza-Nuagaon, Kisam-Parbat-1, Area 7.24 acres for purpose of construction of Odisha Adarsha Vidyalaya, Nuagaon Block in violation of the Forest (Conservation) Act, 1980. The further submission of the Applicants is that the said land is a Kisam Gochar land recorded as Jungle as per Sabik record in which no lease can be granted.
3. A counter affidavit has been filed by the Divisional Forest Officer, Nayagarh, Odisha, on behalf of the Respondent Nos. 1, 3, 4 & 5, State Respondents, stating therein that the Plot No.1, Khata No. 187, Mouza-Nuagaon, Kisam Parbat-1 in Hal ROR (Record of Rights), area 7.24 Ac. is free from tree growths and the Kisam of the said plot in Hal Record of Rights is Parbata-1 and Pahada & Bagayatin Sabik Record of Rights as per the report of Tehsildar, Nuagaon communicated vide its letter No. 3422, dated 07.07.2021. As per the field verification by the Divisional Forest Officer, Nayagarh Division, dated 06.07.2021, Plot No. 1, Khata No. 187, Mouza-Nuagaon, Kisam-Parbat-1 is having shrubs and weed growth


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and not a single tree has been felled. It is also evident from the adjoining land which is having bushes and weed growth.

4. The categorical case of the State Respondents is that the land in question does not belong to Kisam Jungle but as per Khata published on 28.02.1983 in the column of detailed description i.e., 'Bistarita Bibaram, it is mentioned that the place is Ghancha Jungle (bushes) whereas Kisam is Parbat-1. It is also stated that at the site there is no tree growth. The Kisam of the land in question in the Sabik Record of Rights is Pahada and Bagayata. It would be appropriate to reproduce the extract of the land records which is as under:-

Mouza	Khata No.	Plot No.	Total Area	Required Area	Kisam	
					As per Hal ROR	As per Sabik ROR
1	2	3	4	5	6	7
Nuagaon	187(AAA)	01	Ac.125.22	Ac.7.24	Parbat-1	Pahada & Bagayata
Ambajhari	137(AAA)	101	Ac.3.62	Ac.1.30	Bastijogya	Danda & Nayanjori

5. It is also stated that the Tehsildar-Nuagaon, had submitted another proposal for establishing the Adarsha Vidyalaya vide his letter dated 09.07.2021 Annexure-B (at page no. 66 of the paper book), in the adjacent site/land of Mouza-Ambajhari for construction of the said Vidyalaya which in the Revenue Records is shown as Kisam Danda & Nayanjori.


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6. The further categorical stand of the State Respondents is that since the land in question is not a Jungle Kisam land in both Hal and Sabik Record of Rights, approval of the Central Government for use in non-forestry activities is not required. It is also stated that the photographs which have been filed by the Applicant along with the Original Application are not photographs of the site proposed for the Odisha Adarsha Vidyalaya. The soil of site in question is degraded and the quality of soil is not suitable for growth of sal trees, and there is not a single sal tree standing on the site.

7. The further categorical stand of the State Respondents is that as per edaphic constraints (Rocky Soil) only bushes, thorny shrubs and weeds can survive on this land and in any case the land is not recorded as Jungle Kisam in the Hal and Sabik Record of Rights.

8. The case of the State Respondents further is that in terms of the directions of the Hon'ble Supreme Court dated 12.12.21996 passed in W.P. (C) No. 202/1995: T. N. Godaverman Vs. Union of India, a District Level Committee has been constituted in Nayagarh District, Odisha, for identification of land which looks like Jungle but the land in question has not been included in the District Level Committee's Report.

9. The letter of the Collector and District Magistrate, Nayagarh, Odisha, dated 16.07.2021, copy of which has been filed as Annexure-C (at page no. 68 of the paper book) also shows that Khata No. 187 (Abada Ajogya Anabadi) as being recorded as Kisam Parbat-I. The photographic evidence which have been filed as


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Annexure-E (at page nos. 87 to 90 of the paper book) also show the land to be hilly with shrubs but there are no sal trees standing on the said land. These photographs also disclose the longitude and latitude of the site which we may observe have not been disputed by the Applicant in his rejoinder affidavit dated 31.12.2021.

10. Mr. Biswaranjan Paramguru, learned Counsel for the Applicants repeatedly referred to the letter of the Collector-Nayagarh dated 26.03.2019 (at page no. 22 of the paper book), stating that when the land was identified for construction of Odisha Adarsha Vidyalaya, Nuagaon, it was mentioned in his letter that the land was in Jungle Kisam and thereafter the Tehsildar-Nuagaon in his letter dated 17.10.2019 addressed to the Revenue Inspector, Nuagaon, (at page no. 23 of the paper book) has also referred to the letter of the Collector stating that the land has not been approved since it was recorded as Jungle in Sabik Record of Rights. Further, the Tehsildar-Nuagaon, vide notification dated 17.10.2019 has also stated that the Additional District Magistrate, Nayagarh, Odisha, has instructed to identify another patch of Govt. land for construction of the Odisha Adarsha Vidyalaya (at page no. 24 of the paper book).

11. We also find from the document filed at page no. 25 of the paper book, which is the extract of the land schedule referred to by the Site Selection Committee in its meeting held on 08.09.2020 wherein Plot No.1, Khata No. 187, Mouza-Nuagaon area (in acres)


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7.24 has been mentioned as Kisan Parbat-1. The land schedule nowhere refers to this land as Kisan Jungle.

12. Learned Counsel for the Applicants has also placed on record the letter of the Commissioner-cum-Secretary to the Govt. of Odisha dated 24.10.2011 addressed to all the Collectors (at page no. 31 of the paper book), which mentions that all lands which are recorded as non-forest Kisan in Record of Rights published after 25.10.1980 but which carry an entry of Sabik Kisan Jungle in the remarks column, the provisions of Forest (Conservation) Act, 1980 would be applicable to any type of forest land including land recorded as non-forest land in Hal records published after 25.10.1980 which was of Kisan Jungle in its respective Sabik record as on 25.10.1980 irrespective of the fact that the said non-forest Kisan land in Hal record does not find place in the District Level Committee's Report.

13. In the rejoinder affidavit of the Applicants dated 31.12.2021, it has been mentioned that in an identical case of Khata No. 40, Plot No. 75/P, its status in the Sabik record as on 25.10.1980 was Parbata (Sala Jungle) & Parbata II (Sala Jungle) and in remark column it has been mentioned as DLC forest and permission has been sought by the Tehsildar-Barbil from the Central Government for non-forest use of the said land.

14. In the present case, we find that neither the Applicants nor the Respondents have filed before us the Sabik record of 25.10.1980 which is the cut of date mentioned in the judgment of the Hon'ble Supreme Court dated 12.12.1996 passed in W.P. (C) No. 202 of


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1995: T. N. Godaverman Vs. Union of India, and if the land in question is mentioned as Parbat-I, (Gancha Jungle) in the Sabik Record of 25.10.1980 as claimed by the Applicants then as per the letter of the Commissioner-cum-Secretary to the Govt. of Odisha, such land which is recorded as non-forest Kisam in the Record of Rights published after 25.10.1980 but which in the Sabik Record of Rights existing as on 25.10.1980 is mentioned as Sabik Kisam Jungle, such land would have to be treated as forest land and permission would have to be sought from the Government for non-forest use irrespective of the fact that such land does not find place in the District Level Committee's Report.

15. We, therefore, dispose of this Original Application with a direction to the Respondent No.4, Collector & District Magistrate, Nayagarh, Odisha, and Respondent No.5, Divisional Forest Officer, District-Nayagarh, Odisha, to re-examine the matter in the light of the observations made hereinabove and determine as to whether the land in question i.e., Plot No.1, Khata No. 187 (AAA), Mouza-Nuagaon, Kisam Parbat-I, area 7.27 acres, was at any point of time prior to 25.10.1980 recorded in the Sabik Record of Rights as Kisam Jungle or Kisam Gancha Jungle and what would be its effect in pursuance of the letter of the Commissioner-cum-Secretary to the Govt. of Odisha dated 24.10.2011.

16. Let such decision be taken within a period of two months i.e., by 15.03.2022. However, we make it clear that if the said plot of land falls within the purview of Kisam Jungle or Kisam Gancha

[Signature]
**TAHASILDAR
 NUAGAON**

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[Signature]
 Collector & Dist. Magistrate
NAYAGARH

Jungle as mentioned in paragraph 15 above, then clearance under Section 2 of the Forest (Conservation) Act, 1980 will have to be taken.

17. We also direct that Respondents shall maintain status-quo in respect of the land in question till such decision is taken by the Respondent No.4, Collector & District Magistrate, Nayagarh, Odisha, and Respondent No.5, Divisional Forest Officer, District-Nayagarh, Odisha.

18. There shall be no order as to costs.

.....
B. AMIT STHALEKAR, JM

.....
SAIBAL DASGUPTA, EM

Kolkata,
January 11, 2022,
Original Application No. 36/2021/EZ
AK


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Collector & Dist. Magistrate
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- 18 -

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No. 29891 of 2020

Golapa Nayak and others *Petitioners*

Mr. S.A. Pattnaik, Advocate

-versus-

State of Orissa and others *Opposite Party*

Mr. P.K. Muduli, AGA

**CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK**

Order No.

ORDER
29.03.2022

06. 1. From Para-11 of the counter affidavit, it appears that the dispute raised in the present petition is about a suitable location for the construction of an Adarsha Vidyalaya in Nuagaon. In response to the notice issued in the present petition, a reply has been filed by the Opposite Party- State. In Para-11, it is explained how the selected spot of Mouza Nuagaon and Ambajhari have been now properly verified by the Site Selection Committee and found suitable for construction of the Adarsha Vidyalaya.
2. Learned counsel for the Petitioner states that earlier this very site was rejected for having a large number of trees. However, now that the Site Selection Committee has found the site suitable and it is up to the State to make it feasible for a School to come up on the site.
3. No further directions are called for. The petition is disposed of.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

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Abhishek
Collector & Dist. Magistrate
NAYAGARH

S. Behera

(Signature)
**TAKASILDAR
NUAGAON**

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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No. 32482 of 2020

Surdarshan Sitha and others *Petitioners*

None

-versus-

State of Orissa and others

Opposite Party

Mr. P.K. Muduli, AGA

Mr. P.K. Parhi, ASGI

Mr. N.N. Satapathy, Standing Counsel

For School & Mass Education Deptt.

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

29.03.2022

Order No.

06.

1. In view of the order passed by this Court in W.P.(C). No. 29891 of 2020, the present writ petition is also disposed of.

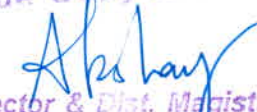
2. The interim order passed earlier, stands vacated.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

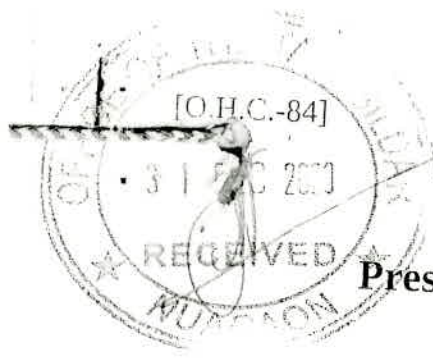
S. Behera


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KUAGAON

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Collector & Dist. Magistrate
NAYAGARH

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K. Choudhury, R.A.
Attornation / Jee
03/01/01/0



IN THE HIGH COURT OF ORISSA

Present Before Hon'ble Mr. Justice K.R.Mohapatra.

W.P.(C) No. 32482 of 2020

(Arising out of copy of the order dated 11.11.2020 & 08.09.2020 under Annexure-1 & 2 respectively of the writ petition.)

Sudarsan Sitha & Ors.

Versus

.....Petitioner

State of Odisha & Ors.

.... Opp. Parties

In the matter of an application filed by the Advocate for the Petitioner Praying for to stay the operation of the order dated 11.11.2020 & 08.09.2020 under Annexure-1 & 2 respectively and thereby direct the opposite parties not to carry out any construction activities of Adarsha Vidyalaya at plot No. 1, Khata No.187, Mouza- Nuagaon, Nayagarh and plot No. 101, Khata No.137, Mouza-ambajhari, Nayagarh till final disposal of the writ application.

Order No.03, dated 01.12.2020
Passed in I.A.No.14081 of 2020.

XXXX

XXXX

XXXX

XXXX

It is directed that status quo as on today with regard to possession as well as construction activity over Plot No.1 under Khata No. 187 of Mouza Nuagaon in the district of Nayagarh shall be maintained till the next date .

XXXX

XXXX

XXXX

XXXX

Sd/- Mr. K.R.Mohapatra, J.

Memo No. 29213 (9) /Dated 10.12.20

Copy forwarded

Copy to
Tahsildar,
Nuagaon, P.O./P.S., Nuagaon
Dist. Nayagarh

For information and necessary action.
By order

SP
12-2020
Superintendent S/C.

High Court
The 8th Dec, 2020.

OGP-MP-PTS U1 (H.C) 44-20,000-12-2-2020.

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Annexure-H/4

1

ITEM NO.26

COURT NO.8

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 35874/2022

(Arising out of impugned final judgment and order dated 29-03-2022 in WP(C) No. 32482/2020 passed by the High Court of Orissa at Cuttack)

SURDARSHAN SITHA & ORS.

Petitioner(s)

VERSUS

STATE OF ORISSA & ORS.

Respondent(s)

(IA No.174365/2022-CONDONATION OF DELAY IN FILING and IA No.174367/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.174368/2022-EXEMPTION FROM FILING O.T.)

Date : 29-11-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s)

Mr. Ninad Laud, Adv.
Mr. Piyush Beriwal, AOR
Mr. Anjuman Tripathy, Adv.
Ms. Divya Srivastava Adv.
Mr. Piyush Beriwal, AOR
Mr. Ivo D'Costa, Adv.
Mr. Gajendra Singh Negi, Adv.

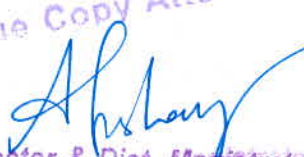
For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Learned counsel for the petitioners states that the assertions and issues raised in the Writ Petition preferred by the petitioners before the High Court was different from the issue raised and decided in Writ Petition (C) No. 29891 of 2020 titled "Golapa Nayak and Others vs. State of Orissa and Others". The petitioners claim

Signature Not Verified
Digitally signed by
BANKU D. SAH
Date: 2022.11.29
10:34:11 IST
Reason: []


TAHASILDAR
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and place reliance on the letter of the Tahsildar dated 10.01.2018 and the revenue records and Khatian Schedule- I Form No- 39 A.

After some hearing, learned counsel for the petitioners seeks permission to withdraw the present special leave petition with liberty to approach the High Court by way of an review petition.

Taking the statement on record, the special leave petition is dismissed as withdrawn with liberty as prayed. However, we clarify that we have not made any comments on the merit of the review petition, which, if filed, would be considered and decided in accordance with law. The petitioner would be, however, at liberty to impugn the order dated 29.03.2022, if required and necessary, in the subsequent proceedings before this Court.

(BABITA PANDEY)
COURT MASTER (SH)

(KAMLESH RAWAT)
COURT MASTER (NSH)


TAHSILDAR
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Collector & Dist. Magistrate
NAYAGARH

IN THE HIGH COURT OF ORISSA AT CUTTACK

RVWPET No. 382 of 2022

Sudarshan Sitha and others

Petitioners

Mr. Satyabrata Mohanty, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. P.M. Pattajoshi, Standing Counsel for S&ME Department

Mr. Bhabani Shankar Rayaguru, CGC for OP Nos.2 & 3

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

17.02.2023

Order No.

02.

1. Mr. P.M. Pattajoshi, learned Standing Counsel appearing for the School & Mass Education Department has handed over a written instruction dated 17th February, 2023 of the Additional District Education Officer, Nayagarh stating that the construction of the Odisha Adarsh Vidyalaya, Nuagaon has been finalized in another place of Nuagaon Block.

2. In that view of the matter, no further directions are called for. The order dated 29th March, 2022 passed by this Court in W.P.(C) No.32482 of 2020 does not require to be reviewed in view of the above clarification.

3. Accordingly, the review petition is disposed of.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

TAKASILDAR
NUAGAON

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Collector & Dist. Magistrate
NAYAGARH