

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI

**Original Application No. 21/2024**

Shailesh Sahoo

..... Applicant

Versus

State of Odisha and others

..... Respondents

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Total: 15 pages

Place: Cuttack

Date: 03 .09.2025

*Biswajit*

ADVOCATE

FOR THE RESPONDENT NO. 7

BISWAJIT MOHAPATRA, ADVOCATE

ORISSA HIGH COURT

MOB. NO.-94382 74243

e-mail ID- biswajitmohapatrakatak@gmail.com



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**Original Application No. 21/2024**

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**AFFIDAVIT-IN-OPPOSITION ON BEHALF OF RESPONDENT NO. 7**

I, Kirandeep Kaur Sahota, aged about 31 years, Daughter of Kulwarn Singh Sahota, at present working as the Commissioner, Cuttack Municipal Corporation, At- Biju Bhawan, Choudhury Bazar, P.O.- Telenga Bazar, P.S.- Purighat, Town/Dist.- Cuttack, do hereby solemnly affirm and state as follows:

1. That I being the Commissioner, Cuttack Municipal Corporation, Respondent No.-7 herein, am competent to swear this affidavit-in-opposition. I am also otherwise acquainted with the facts of the case.
2. That this Original Application has been filed by the applicant alleging about the encroachments and raising of illegal constructions over Mahanadi River bed under Nayabazar Block (Cuttack Sadar Block at Nayabazar) within CRRI and Chauliaganj Police Station limits.
3. That the Hon'ble Tribunal upon hearing the case on 11.07.2025 have directed this respondent to file reply in the matter.

*Kirandeep Kaur Sahota*

*Admitted*

*G. C. BEHERA*  
*ADVOCATE & NOTARY*  
*REGD. No-04/2011*  
*03.09.2025*

4. That, in this regard it is humbly submitted that the areas, which are mentioned by the Applicant in this Original Application, come under part of 05 Revenue Villages namely Sikharpur, Kanheipur, Bhadimula, Banabidyadharpur & Gateirout Patna which are located along the Mahanadi River bed in between the existing Embankment road and the River.
5. That, out of above 05 Revenue Villages, 04 Revenue Villages except Gateirout Patna, are coming under the Cuttack Municipal Corporation jurisdiction.
6. That, regarding raising of illegal constructions over Mahanadi River Bed, it is humbly submitted that, in course of a local enquiry conducted by the field staff/Amins of the Cuttack Municipal Corporation on 25.08.2025 in presence of the Assistant Commissioner (Land), it was noticed that, construction of residential buildings with concrete structure, boundary wall and other commercial set ups have been erected in the said zone. It has also been ascertained that some of the lands of the said locality have already been merged with the river course with the passage of time due to soil erosion and change in the course of the river. True copy of the Enquiry Report dated 25.08.2025 as stated above is annexed herewith and is marked as Annexure-A/7.
7. That, the Planning function of the Cuttack Development Authority (CDA) was transferred to Cuttack Municipal Corporation (CMC) w.e.f 01.09.2019 as per the power delegation order of the Housing & Urban

*Admission  
Patna*

*Kiran deep kaur Saluja*

**G. C. BEHERA**  
**ADVOCATE & NOTARY**  
**REGD. No-04/2011**  
*0309.2025*

Development (H&UD) Department, Govt. of Odisha, issued vide Letter No.-14749/HUD dated 17.08.2019. There is no record available in the office of Cuttack Municipal Corporation regarding the developments which took place prior to such delegation of power in the year-2019.

True copy of the Letter No.-14749/HUD dated 17.08.2019 issued by the Govt. in H & U.D Department, Odisha is annexed herewith and is marked as ANNEXURE-B/7.

8. That, it is humbly submitted that, the Sikharpur and Kanheipur area are high density urbanized area as located in close proximity to the city. Whereas, the Bhadimul and Gateirout Patna are relatively low-density urbanised area. The Banabidyadharpur area is not yet urbanised.
9. That, the concerned area which is situated between the embankment road and River Mahanadi are mostly falling under the Environmentally Sensitive Zone as per the Landuse classification proposed in the Comprehensive Development Plan (CDP) 2030 of Cuttack Development Plan Area, wherein, the construction of building shall be permitted if the following conditions are satisfied as per the Regulation 22(7) of the CDA (P & BS) Regulation, 2017.

- i. The minimum size of the plot shall be 4000 sq. m.
- ii. The minimum width of the approach road shall be 12 m.
- iii. The maximum coverage shall not exceed 40% of the area.
- iv. The proposal for development shall only be considered on recommendation of Development Plan and Building

*Advocate  
Cuttack*

*Hiran deep kaur Saha*

**G. C. BEHERA**  
**ADVOCATE & NOTARY**  
**REGD. No-ON-04/2017**

*G. C. Behera*  
*0309.2025*

Permission (DP and BP) Committee with representatives from Water Resource Department, Odisha State Pollution Control Board and Public Health Engineering Department in the above Committee.

10. That, in view of the above restrictive conditions, no application for permission to raise construction has been received at Cuttack Municipal Corporation from the inhabitants of the above revenue villages since the time of transfer of Planning function to CMC, as the minimum size of the plot is 4000 sq. m. for consideration of the proposal for approval.
11. That, it is humbly submitted that, regarding raising of unauthorized construction in the above site, no complaint has been received by the Cuttack Municipal Corporation from any quarter for taking appropriate steps as per the provisions of law.
12. That, it is humbly submitted that, the Comprehensive Development Plan (CDP), 2030 of Cuttack envisages construction of 200 feet wide embankment road which would originate from National Highway-16 (NH-16) and connect the Paradip road and that, if such an embankment road is developed, then a major portion of land where construction is undertaken may be protected from getting merged with the river course on account of soil erosion. Moreover, since the Cuttack Municipal Corporation area is surrounded by distributaries of Mahanadi River from all sides, provision is required to be made to protect the Cuttack City urban area with a continuous Ring Road along the river beds as proposed

*Admission  
Admission*

*Firan deep kaur Salota*

**Q. C. BEHERA**  
ADVOCATE & NOTARY  
REGD. No-QN-04/201F  
*03.09.2025*

in the Comprehensive Development Plan (CDP), 2030, which will protect the valuable urban land from flood like situation and soil erosion.

13. That the facts stated above are true to the best of my knowledge based on the records available in my office.

Identified by

*Dinodit*

ADVOCATE

*Kirandeep kaur Sahota*

DEPONENT

Municipal Commissioner,  
Cuttack Municipal Corporation



**CERTIFICATE**

Certified that due to non-availability of cartridge papers, this affidavit-in-opposition has been prepared on thick papers in my office.

Place: Cuttack

Date: 03.09.2025

*Dinodit*

ADVOCATE

Affidavit sworn in oath by the Deponent,  
at Cuttack on 03.09.25, being identified  
by Sri. *B. Mahapatra*  
Advocate/Client/Notary personally

*G.C. Behera*  
03.09.2025

G.C. BEHERA  
Notary, Cuttack  
Regd No - ON-04/2018

*G.C. Behera*  
03.09.25

G. C. BEHERA  
ADVOCATE & NOTARY  
REGD. No-ON-04/2018



*G.C. Behera*  
03.09.2025

## Enquiry Report

An enquiry regarding state of Land in Mahanadi River bank was conducted in areas of mouza Kanheipur, Bhadimul, Bana Bidyadharpur and Unit- 26, Sikharpur under Cuttack Municipal Corporation.

On site visit, it is found that, on the north side of river embankment, the private patches of land which was once farmland, are now being used for construction of buildings, Concrete Structure, boundaries etc. Moreover, some institutions like school, Gas depo, ware house, iron work factories and other commercial setups are also operational in this area. Some part of the land has also merged with the river in due course of time.

None of the land patch in Mahandi River embankment belongs to Cuttack Municipal Corporation.

Niranjan Brahma.  
(Amin)  
25/8/25  
Sukesh Kumar Sahas  
(AMIN)  
25/8/25  
Banahidhar Sahas  
dt 25/8/25

  
25/8/25  
Assistant Commissioner  
Cuttack Municipal Corporation

Government of Odisha  
Housing and Urban Development Department

DY  
5800  
19/8/19

No. 14749 /HUD., dated the 17.8.19  
HUD-TP-POLICY-0001-2015

From

Sri Sivendu Kanungo, OAS  
Special Secretary to Government

To

The Vice Chairman,  
Cuttack Development Authority/ Berhampur Development Authority/  
Sambalpur Development Authority/ Rourkela Development Authority.

The Municipal Commissioner,  
Cuttack Municipal Corporation/ Berhampur Municipal Corporation/  
Sambalpur Municipal Corporation/ Rourkela Municipal Corporation

Sub: Transfer of Planning functions to Municipal Corporations from  
Development Authorities through delegation under Section-111 of ODA  
Act, 1982.

Ref: This Office Order No. 7678 of 30.03.2010 and 1781, dated 19.01.2015.

Sir,

In inviting a reference to the subject cited above, I am directed to  
inform you that it has been decided to transfer the Planning function to the  
four Municipal Corporations by 30<sup>th</sup> Aug 2019 from the Development  
Authorities in keeping with the mandate of 74<sup>th</sup> Amendment of the  
constitution.

Earlier order of Government Vide HUD-TP-Policy-0001-15/1781/HUD,  
Dated 19.01.2015 may be referred in this regard. Keeping in view of  
capacity constraint of the Corporations to discharge the Planning functions,

O/c

19/8/19

Director  
Adm. Cell

the resources available with Development Authorities will be utilised by the Corporations at the initial stages. Corporations on acquiring the adequate capacity subsequently, such manpower deployment from the Development Authorities may be withdrawn.

It has been decided that the following functions would be delegated to the Corporations by the concerned Development Authorities under Section-111 of ODA Act, 1982 :

- a) Issues related to Building Plan approvals,
- b) Lay out/ Sub divisional Regulation approval cases,
- c) Authority to deal with unauthorized constructions.

To enable the Municipal Corporations to discharge the delegated functions, the operating procedures as delineated here under may be followed.

1. Development Authorities shall on receipt of model agenda & proceedings of the Authority Meeting relating to delegation of Planning Functions are to get the same approved before 20<sup>th</sup> Aug 2019. (Model Agenda & model proceeding are enclosed as Annexure-1.)
2. Development Authority shall notify the delegation of power before 24<sup>th</sup> Aug, 2019. (Model notification is at annexure-II)
3. Human Resources Deployment
  - I. The H&UD Department shall issue suitable orders instructing Planning Members of respective Development Authorities to discharge the functions of City Planner/ Municipal Planner in addition to their original duties.
  - II. The Development Authorities shall deploy the Planning Assistant / Draftsman and Amin at least one each to the respective Corporations before 26<sup>th</sup> Aug, 2019 positively.
  - III. The Municipal Corporations shall attach sufficient Dealing Assistants / Group-D staff to the Planning section by 26<sup>th</sup> Aug, 2019.

A /  
Asinoyil  
Adinok


- IV. The Municipal Corporations should authorize one of the Administrative Officers to deal with case of unauthorized constructions along with One Dealing Assistant and One Amin.
4. The Municipal Corporations should allocate the logistics as outlined below, by 28<sup>th</sup> Aug, 2019.
- I. Office space with furniture and fixtures to function as Planning Section to accommodate one Officer two Dealing Assistants, two Planning Assistants /Draftsmans/ & two Amins.
  - II. Four Computer System with Printer
  - III. Stock & Stationery
5. An orientation programme shall be conducted by H&UD Department on 29<sup>th</sup> Aug, 2019 to acquaint the concerned officials from all the Municipal Corporations concerned on the process of Building Plan Approval / Layout Approval.
6. The Municipal Corporation shall issue a notice on commencement of Planning function in Municipal Corporations from 31<sup>st</sup> Aug, 2019 for general information of public on or before 30<sup>th</sup> Aug, 2019 unfailingly. A model public notice is enclosed as annexure -III.
7. In case of non-availability of Planning Assistant / Draftsman and Amin in the Development Authorities the Municipal Corporation may engage such technical personnel through outsourcing.

All the four Development Authorities and Municipal Corporations are therefore requested to complete the above activities and sub activities as per the timeline enclosed in annexure-IV.

This may be treated as most urgent.

Enclosures: As above.

Yours faithfully,

  
17-08-2019

Special Secretary to Government

*Amirul  
Adnan*

✓

Model Agenda and proceeding for delegation of powers by  
Development Authorities to .....Municipal corporation

Sub: Delegation of power in respect of approval of building plan cases  
U/S 111 of ODA Act 1982.

1. This is regarding delegation of power as per the provision of 111(1) of the Odisha Development Authority Act, 1982 for approval of Building Permission cases. As per order of Govt. Vide no. Reforms-UR-10/2010/7678/HUD, dt. 30.03.2010, ..... Development Authority is to delegate the powers of according building permission and development/sub-division of land in favour of ..... Municipal Corporation existing within its development plan area.
2. In the mean time, Govt. In H & UD Deptt. Vide Order No.HD-TP-Policy-0001-2015-1781/HUD, dt.19.01.2015 clarified that delegation from Development Authorities to Urban Local Bodies u/s 111 of the Odisha Development Authority Act, 1982 will include the following:-
  - (a) Issues related to Building plan approval
  - (b) Layout/sub-divisional Regulation approval cases,
  - (c) Authority to deal with unauthorised constructions.
3. In view of the above as per provision u/s-111(1) of ODA Act, 1982, power of the authority is delegated to ..... Municipal Corporation within ..... Development Authority area.
  - (a) Building plan permission:- full power subject to following conditions.
    - (i) Constitution of Multi-Agency Building Permission committee headed by Municipal Commissioner ..... Municipal Corporation, and having representatives from PHED, Director Environment, Drainage division, Supt. Engineer / Executive Engineer(R&B), representative from ASI, Director of Town Planning, Planning Member ..... Development Authority, City

*Approved  
Advocate*

12/13

Planner/Municipal Planner ..... Municipal Corporation, representative from Revenue Department, representative from Fire Prevention Wing, representative from Water Resource Department, representative from Electricity Supply Company, City Engineer, ..... Municipal Corporation.

(ii) The Planning & Building Standard Regulation, 2017 of ..... Development Authority shall be followed.

(b) Lay-out Approval.

Full powers to multi agency Building Committee to be constituted by ..... Municipal Corporation.

(c) (i) Authority to delegate the powers u/s 91 & 92 to deal with unauthorised construction to Municipal Commissioner ..... Municipal Corporation or any other officer authorised by him w.e.f. 1<sup>st</sup> September, 2019.

All new cases of unauthorised constructing in ..... Municipal Corporation area will be detected and dealt by ..... Municipal Corporation from above date and disposed of as per provision of ODA Act and Rule and Regulation made there under.

(ii) For cases which are under hearing as of now, State Govt. may be moved for clarification of the matter.

Proceedings

Approved

Planning Member      Engineer Member      Finance Member

Adminstrator              Adminstrator              Vice-Chairman  
Municipal Corporation      Of other ULBs

Chairman

*Approved  
Adminstrator*

Annexure II

..... DEVELOPMENT AUTHORITY

.....  
Notification

Letter No.....

Dated.....

In exercise of powers vested in it vide Section 111 (1) of Odsha Development Authority Act, 1982, ..... Development Authority, vide its ..... meeting, held on ..... delegates the powers of according Building Permission and Development and sub-division of land in favour of ..... Municipal Corporation existing within its development plan area to the extent outlined below.

- (i) Building permission
- (ii) Lay-out/ sub-division of land approvals
- (iii) Authority to deal with unauthorised constructions

While disposing the cases they will follow the provisions of ..... Development Authority, Planning and Building Standard Regulation, 2017, as amended from time to time.

This will come into force with immediate effect.

By order of the Authority,

Secretary.

*Approved  
Admission*



Annexure III

..... MUNICIPAL CORPORATION  
.....

Letter No.....

Date .....

PUBLIC NOTICE

Sub: Start of Planning Department in ..... Municipal Corporation & receipt of application for building plan and lay-out plan approval.

1. It is hereby notified that building plan approval and layout plan approval will be given by ..... Municipal Corporation from 1<sup>st</sup> September, 2019.
2. As building plan and layout plan has been delegated to ..... Municipal Corporation under ODA Act, 1982, therefore the provisions of ODA Act/Rules and regulations made thereunder which are applicable to ..... Municipal Corporation/Jurisdiction will remain applicable for the same and all cases will be dealt accordingly by ..... Municipal Corporation.

Commissioner,

.....Municipal Commissioner

*Handwritten signature/initials in blue ink*



### Activity Chart and Timeline for Transfer of Planning function from Development Authorities to Municipal Corporations

	Staff of Municipal Corporations	<ul style="list-style-type: none"><li>• Land use plan in cadastral</li><li>• Documents to be attached with application</li><li>• Site Inspection and reportings</li><li>• Scrutiny process and details</li><li>• Approvals, Refusals, Show cause etc</li></ul>	Conference Hall	
5	Infrastructure/Logistics	<ul style="list-style-type: none"><li>• Office Space - 1200 Sq. ft</li><li>• Furniture</li><li>• Stationary (Fly Leaf, Notesheet, First Page, Registers, Forms, Papers etc)</li><li>• Computers with Printers - 4 nos</li></ul>	Municipal Corporations	28 <sup>th</sup> August 2019
6	Public Notice of starting of Planning Functions in Municipal Corporations		Municipal Corporations	30 <sup>th</sup> August 2019

*Some copy attached  
Admin with  
Advocate*