



**COMPENDIUM OF
GENERAL LETTERS
AND CIRCULARS
(CRIMINAL)
1988-2023**

ISSUED BY
THE HIGH COURT OF ORISSA





सत्यमेव जयते

**COMPENDIUM OF
GENERAL LETTERS AND CIRCULARS
ISSUED BY
THE HIGH COURT OF ORISSA**

(CRIMINAL)

(1988-2023)

PREFACE

The visionary objective of the High Court of Orissa to compile all the important circulars/standing instructions issued from time to time from the year 1988 to 2023 in Criminal side, in the form of a well articulated compendium would serve as ready reckoner for all the judicial officers and other stakeholders of the State. It would facilitate swift access to information and dissemination of information and thus would be instrumental in enhancing the judicial acumen which would be beneficial for the judicial officers, while discharging their functions in judicial and administrative capacities.

I owe my heartfelt gratitude to Hon'ble Dr. Justice B.R Sarangi, the Acting Chief Justice and Hon'ble Companion Judges of the Hon'ble Court for their Lordships' constant guidance, valuable suggestions as well as relentless endeavour, which has provided much needed impetus in accomplishing the holistic objective.

I express my sincere thanks to Mr. Pratap Kumar Patra, Registrar General and brother Judicial Officers in the Registry for their unconditional support in compilation of the Compendium. I also appreciate the effort and cooperation rendered by the Rules Section and other Sections of the High Court of Orissa for facilitating the compilation of the circulars/instructions for the publication of the compendium of circulars.

The compilation of all the important circulars for a span of 35 years, in the form of a compendium was indeed a challenging task, which necessitated meticulous care and attention. However, any sort of doubt entertained, in interpretation of the circulars/instructions may please be referred to the High Court of Orissa in order to offer necessary clarification in the matter.

The Registry shall be gratified and amply rewarded, if this compendium would be found to be of practical and pragmatic utility by the stakeholders of the judicial fraternity of the State.

CUTTACK
The 22nd December, 2023

(Akhil Kumar Paschimakabat)
Registrar (Vigilance)
THE HIGH COURT OF ORISSA

I

TABLE OF CONTENTS

Sl. No.	Circular No. & Date	Subject	Page No.
1.	2933/ 30.03.1988	<u>Holding of Monthly meeting of Judicial Officers to discuss about the problem concerning to that Court</u>	<u>1</u>
2.	3292/ 07.04.1988	<u>Delay in submission of compliance reports on the notes of inspection.</u>	<u>2</u>
3.	3624/ 19.04.1988	<u>Submission of the application for the grant of legal aid along with vakalatnama by the jail Superintendent for smooth and speedy of disposal of jail Criminal Appeals/ Revisions.</u>	<u>3</u>
4.	10085(13)/ 22.08.1988	<u>Furnishing security bonds by the Staff of the Civil and Criminal Courts.</u>	<u>4</u>
5.	11692/ 28.09.1988	<u>Mentioning the age of the detenu fin the Jail Warrant.</u>	<u>5-11</u>
6.	12047/ 03.10.1988	<u>Disposal of year-old pendency both on Civil and Criminal side.</u>	<u>12</u>
7.	12800(13)/ 05.11.1988	<u>Adjournment of Sessions cases. Modified vide Court's letter No. 6962 dtd.07.08.1989.</u>	<u>13</u>
8.	12933(13)/ 10.11.1988	<u>Outburst of some crackers (bombs) in the Court Malkhana at Bhadrak. Consequential damage of some Malkhana Properties.</u>	<u>14</u>
9.	15142/ 08.12.1988	<u>Periodicity of inspection by the District and Sessions Judges and Chief Judicial Magistrates.</u>	<u>15</u>
10.	130(13)/ 05.01.1989	<u>Issue of summons to the Magistrates who have recorded confessional statement of the accused u/s. 164 Cr. P.C. to give evidence.</u>	<u>16</u>
11.	152/ 05.01.1989	<u>Disposal of old pending cases in the Subordinate Civil and Criminal Courts.</u>	<u>17</u>
12.	1172/ 02.02.1989	<u>Issuance of summons with legible court seal and clearly mentioning the name and address of the issuing court.</u>	<u>18</u>
13.	3133(13)/ 30.03.1989	<u>Securing the attendance of the accused persons consequent upon taking cognizance on the basis of Police report.</u>	<u>19</u>
14.	5992(13)/ 03.07.1989	<u>Maintenance of Register of Defect Reports received from the District Record Room.</u>	<u>20-21</u>
15.	6124(26)/ 11.07.1989	<u>Holding of Test Identification Parade by the Magistrates.</u>	<u>22</u>

II

16.	6962(13)/ 07.08.1989	<u>Adjournment of Sessions Cases.</u>	<u>23</u>
17.	7492(13)/ 25.08.1989	<u>Desirability of submission of proceedings of monthly meetings between the Chief Judicial Magistrates and the Superintendents of Police.</u>	<u>24</u>
18.	8788/ 05.10.1989	<u>Manner of sending Non-F.T.R. Prosecution Reports by the different Prosecution Agencies.</u>	<u>25-28</u>
19.	1467/ 22.02.1990	<u>Empowering the Additional District & Sessions Judges of the outlying stations to receive and admit appeals and revisions within the local Limits of their respective jurisdiction.</u>	<u>29-30</u>
20.	5079(13)/ 17.07.1990	<u>Practice of handcuffing the arrested persons by Police as a matter of routine-guide lines regarding.</u>	<u>31-34</u>
21.	5248(13)/ 23.07.1990	<u>Revised procedure effective from 1.8.90 regarding transmission of Orders of the Supreme Court in respect of release of prisoners from Jails.</u>	<u>35-37</u>
22.	5371(26)/ 27.07.1990	<u>Revision of the yardstick prescribed for the cases under the Orissa Forest Act, 1972.</u>	<u>38</u>
23.	6597/ 10.09.1990	<u>Submission of advance tour programme on Inspection by the Chief Judicial Magistrates.</u>	<u>39-41</u>
24.	6670/ 11.09.1990	<u>Review of progress achieved in the disposal of cases involving U.T.Ps.</u>	<u>42-43</u>
25.	8659(13)/ 14.11.1990	<u>Recording of deposition of witnesses u/s 299 Cr. P.C. by the Court of Sessions in cases where Commitment u/s 209 Cr. P.C. is not possible due to non-apprehension of the accused.</u>	<u>44</u>
26.	8661/ 14.11.1990	<u>Noting the date of vacation of stay in the remarks column of the Register of cases in which proceeding have been stayed (R) 41 (Civil) and (R) 41 (Criminal).</u>	<u>45</u>
27.	8879/ 21.11.1990	<u>Furnishing security bonds by the staff of Civil and Criminal Courts.</u>	<u>46</u>
28.	8963/ 22.11.1990	<u>Authorizing the Director of Public Prosecution to peruse the Register of under Trial Prisoners maintained by the Criminal Courts.</u>	<u>47</u>
29.	51/ 03.01.1991	<u>Return of the warrant for release of the prisoner on bail to the court of Appeal or Revision on the inability of the Prisoner to furnish the bail.</u>	<u>48-49</u>
30.	1193(13)/ 13.02.1991	<u>Obtaining the signature of the Magistrate in Column-11 (now renumbered as Column-12) of the Register of property (R) 27 (Criminal).</u>	<u>50</u>

III

31.	2698(13)/ 16.03.1991	<u>Noting the fact of recall of warrant of arrest in the remarks column(R) 10 (Register of processes issued to the Police Station).</u>	<u>51</u>
32.	2798/ 18.03.1991	<u>Propriety of putting hand-cuffs to the undertrial prisoners after judgment of acquittal is pronounced.</u>	<u>52</u>
33.	2896/ 21.03.1991	<u>Noting the particulars of the witnesses examined in cases under the House Rent Control Act in the Register of Attendance of witnesses (R) 8 and Criminal diary (R) 6.</u>	<u>53</u>
34.	3141/ 28.03.1991	<u>Deputation of a Senior Clerk with Chief Judicial Magistrates for preparing draft inspection notes.</u>	<u>54</u>
25.	3318/ 04.04.1991	<u>Supply of free copies of acquittal judgments to the public prosecutor of Railway Department in respect of cases institution under Railway Properties (Unlawful Possession) Act, 1966.</u>	<u>55</u>
36.	3366/ 06.04.1991	<u>Utilization of the service of Stenographers and typists who do not have sufficient work during office hours for preparation of police papers.</u>	<u>56</u>
37.	3832/ 18.04.1991	<u>Consideration of statistics regarding disposal of cases.</u>	<u>57</u>
38.	3834/ 18.04.1991	<u>Non-acceptance of charge sheets or prosecution reports in the absence of particulars of age of the accused persons and full name and correct addresses of the witnesses.</u>	<u>58</u>
39.	4213/ 01.05.1991	<u>Entry of the particulars regarding release of the convict under sections 3 or 4 Probation of Offenders Act passed by the Appellate/Revisional Court in the Register of Probation of Offenders Act (R) 40 maintained by the Trial Court.</u>	<u>59</u>
40.	7513/ 01.08.1991	<u>Use of "Official attire" by the Judicial officers who are to receive or see off or call upon by the Hon'ble C.J and Hon'ble Judges of the Court during their visit .</u>	<u>60</u>
41.	7515/ 01.08.1991	<u>Mode of calculation of the term of probation in cases when an offender is enlarged on probation in more than one case.</u>	<u>61</u>
42.	8053(13)/ 16.08.1991	<u>Procedure to be followed regarding issuance of notice to the parties for hearing of Claim cases at Circuit Court by IInd M.A.C.T.</u>	<u>62</u>
43.	8443(13)/ 13.09.1991	<u>Application for bail by the accused u/s. 437 (1), Criminal Procedure Code (Cr. P.C.).</u>	<u>63-64</u>
44.	10593/ 03.12.1991	<u>Question of prescribing the period of preservation of records placed in the dormant file.</u>	<u>65</u>
45.	30/ 03.01.1992	<u>Fixing a date line for submission of monthly statement by the District Judges to the High Court.</u>	<u>66</u>

IV

46.	213/ 10.01.1992	Hearing the convict on the question of sentence in Criminal trials. Further instruction issued vide Court's letter No.7756 dtd.28.08.1992.	67
47.	487/ 25.01.1992	Noting the date of disposal in Column-8 of (R) 40, Registrar of cases dealt with under the Probation of Offenders Act, 1958.	68
48.	1361(13)/ 21.02.1992	Appointment of Commissioner of Oath under Section 297 of the Code of Criminal Procedure.	69
49.	3243/ 23.04.1992	Submission of monthly report of work done by the Director of Public Prosecution to the High Court.	70
50.	3235(15)/ 23.04.1992	Scope and applicability of Section 37 of the NDPS Act, 1985,(Observation made by Supreme Court in Narcotic Drugs Bureau Vs. Kishan Lal and others AIR 1991,SC,558).	71-72
51.	3880/ 14.05.1992	Summons to Handwriting Experts and other Experts for their evidence.	73
52.	4426/ 18.06.1992	Observation made on the monthly statement relating to the applications for grant of Anticipatory bail for the month of February and march, 1992.	74
53.	4806(13)/ 29.06.1992	Supreme Court's Judgment 11.09.91 in Writ Petition (Crl.) No.517 regarding no Judicial Officer should visit the police stations.	75-83
54.	6897/ 29.07.1992	Change in the periodicity of inspection of Magisterial Courts by the Chief Judicial Magistrates Modified vide letter No. 8224 dt. 5.9.98.	84
55.	6927/ 29.07.1992	Transfer of cases filed under the Narcotic Drugs and psychotropic Substances Act, 1985 to the Court of Assistant Sessions judges.	85
56.	7225/ 10.08.1992	Amendment of Column 6 and 7 of the Register showing the receipt and movement of case diaries prescribed under Court's Circular Letter No. 1866 dated 22.3.1976.	86
57.	7756/ 28.08.1992	Hearing the convict on the question of sentence in Criminal trials.	87
58.	8386/ 17.09.1992	Supply of copies of acquittal judgments in police cases to the Superintendent of Police through the Law Inspector/Court's Sub-Inspector of Police (C.S.I).	88
59.	8544/ 24.09.1992	Obtaining copies of the under Trial Prisoners statements in suitable cases by making correspondence with the concerned Chief Judicial Magistrates. (Item No. 32 of the proceedings of the District Judges' Conference, 1991).	89

60.	8737/ 01.10.1992	<u>Observations made by the Hon'ble Supreme Court in a decision reported in (1992) 3 Supreme Court Cases 40 (Premraj-V-Union of India) for expeditious disposal of Land Acquisition cases.</u>	<u>90-94</u>
61.	8919(13)/ 20.10.1992	<u>Non-release of NDPS accused on bail relying on the decision passed on Bidyadhar-vs-State, 1992 (5) OCR 31.</u>	<u>95</u>
62.	9203(13)/ 29.10.1992	<u>Maintenance of Judgment Register.</u>	<u>96-97</u>
63.	9312/ 03.11.1992	<u>Inspection of Legal Aid cases by the District Judges & CJMs.</u>	<u>98</u>
64.	9419/ 05.11.1992	<u>Review of progress achieved in the disposal of cases involving Under Trial prisoners.</u>	<u>99-100</u>
65.	9866/ 20.11.1992	<u>Mentioning the date of conclusion of the argument, date of Judgment/Order and the reasons for delay, if any, in delivery of Judgment/order in the body of judgment/Order.</u>	<u>101</u>
66.	10867/ 24.12.1992	<u>In case of absence of the accused in a warrant case at the time of pronouncement of the Judgment, a sentence of fine only can be imposed in accordance with Sub-section (6) of Section 353 Cr. P.C.</u>	<u>102-103</u>
67.	222/ 12.01.1993	<u>Suo Moto CRLMC 1949 of 1992 Circulated regarding release of accused of Offences and NDPS Act.</u>	<u>104-108</u>
68.	569/ 19.01.1993	<u>Procedure for trial of cases in respect of an Under Trial Prisoner who faces trial into different courts.</u>	<u>109</u>
69.	908(13)/ 29.01.1993	<u>Circulation of judgment of Criminal Misc. Case No. 617 of 1988 of Hon'ble Court.</u>	<u>110-116</u>
70.	1495/ 22.02.1993	==	<u>117</u>
71.	1654/ 24.02.1993	<u>Withdrawal of instruction issued vide Court's G.L.No.-2/55 (Criminal) regarding, obtaining orders from the High Court before giving effect to the bail order.</u>	<u>118</u>
72.	1708/ 26.02.1993	<u>Grant of anticipatory bail.</u>	<u>119-122</u>
73.	2912/ 22.03.1993	<u>Trial of cases under the prevention of Food Adulteration Act.</u>	<u>123</u>
74.	G.L No. 1 of 1993/ 24.03.1993	<u>Modification of the instruction issued in General Letter No.1 of 1986 (Criminal).</u>	<u>124</u>

VI

75.	3109(13) & 3110 / 26.03.1993	<u>Desirability of summoning officers of various departments as witnesses to give evidence in more cases than one at a time.</u>	<u>125-126</u>
76.	3378(15)/ 06.04.1993	<u>Desirability of filing of sufficient number of Prosecution Reports/Complains and Processes like summons to the accused and the witnesses along with the Prosecution Reports.</u>	<u>127-128</u>
77.	3619(13)/ 14.04.1993	<u>Filing of the copies of Prosecution Reports/Complaints, Summons to the accused and witnesses by the Prosecuting Agencies in Court.</u>	<u>129</u>
78.	3639/ 15.04.1993	<u>Question of filing fresh bail bond by the surety in the Court of Session after commitment, if the accused had already released on bail in the lower court.</u>	<u>130</u>
79	3816/ 21.04.1993	<u>Imposition of inadequate sentence.</u>	<u>131</u>
80.	4214(13)/ 06.05.1993	<u>Implementation of Supreme Court Judgment in writ petition (CRL) No. 1171 of 1982.</u>	<u>132</u>
81.	4963/ 24.05.1993	<u>The Sessions Judge exercising the powers of a special judge under N.D.P.S. Act alone can consign the record to the dormant file.</u>	<u>133</u>
82.	5358(13)/ 26.06.1993	<u>Desirability of summoning the Police Officers as witnesses to give evidence in more cases than one at a time.</u>	<u>134-135</u>
83.	7007/ 19.07.1993	<u>Consideration of statistics received regarding disposal of cases of different categories, outturn of Officers and adjournment of Sessions cases etc.</u>	<u>136</u>
84.	8229(15)/ 01.09.1993	<u>Communication of Judgment dtd. 20.8.93 in the Suo Moto Criminal Misc. case No. 877, 878 and 880 to 884 of 1993 to the District Judge and Special Judge (Vig) BBSR & Sambalpur.</u>	<u>137-141</u>
85.	8455/ 10.09.1993	<u>Desirability of taking prompt action for realization of fine.</u>	<u>142</u>
86.	8487(26)/ 13.09.1993	<u>Holding of monthly meetings of senior Officers to find out ways and means and to solve various problems for expeditious disposal of Criminal Cases.</u>	<u>143</u>
87.	9235/ 04.10.1993	<u>Assigning separate numbers to split up cases the Registrar (R)-1 and (R)-3.</u>	<u>144</u>
88.	9714./ 02.11.1993	<u>Modification of the instruction issued in General Letter No.2 of 1984 (Criminal) regarding marking of exhibits in Criminal Cases.</u>	<u>145-146</u>

VII

89.	9918/ 09.11.1993	<u>Obtaining the signature of the court's sub-Inspector in the Register of processes issued to each police stations in Form No. (R) 10.</u>	<u>147</u>
90.	10192(13)/ 16.11.1993	<u>Non-production of the Under Trial prisoners in the court on the due date.</u>	<u>148</u>
91.	11271(13)/ 24.12.1993	<u>Writing of processes as per provision contained in Sections 230, 242(2) and 254 (2) of the Criminal Procedure Code.</u>	<u>149</u>
92.	1165/ 18.02.1994	<u>Desirability of transferring the registers along with the case records when the Magistrate is transferred from a station and no substitute is posted.</u>	<u>150</u>
93.	2079/ 16.03.1994	<u>Question as to whether presence of the accused is to be insisted upon before the charge is framed and the provisions for representation by a lawyer may not be liberally invoked.</u>	<u>151</u>
94.	3425/ 05.05.1994	<u>Expeditious disposal of pending cases relating to recovery of Bank dues.</u>	<u>152-153</u>
95.	3625/ 09.05.1994	<u>Expeditious disposal of cases under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (N.D.P.S Act.)</u>	<u>154</u>
96.	5178(13)/ 19.07.1994	<u>Authorizing the Additional Chief Judicial Magistrates to Inspect the Magisterial Court's situated at stations. (Court's Circular Letter No. 7998(4) dated 12.9.89. withdrawn).</u>	<u>155</u>
97.	5757/ 10.08.1994	<u>Disposal of cases of U.T.Ps. pending two years or more.</u>	<u>156</u>
98.	5771/ 10.08.1994	<u>Disposal of old pending suits and cases in the Subordinate Civil and Criminal Courts.</u>	<u>157</u>
99.	5866/ 17.08.1994	<u>Discontinuance of practice of submission of Regional languages statement.</u>	<u>158</u>
100	6815/ 15.09.1994	<u>Realization of fine amount imposed by Special Courts in the Special Act cases by the Chief Judicial Magistrates.</u>	<u>159</u>
101.	7213/ 28.09.1994	<u>Procedure for taking of cognizance of offences in cases involving offence under the I.P.C. triable by the court of Sessions combined with the offences under the S.C. &S.T. (prevention of Atrocities) Act, 1989.</u>	<u>160</u>
102.	7466(13)/ 05.10.1994	<u>Discontinuance of submission of best judgments/orders of each of the subordinate Judicial Officers of the State.</u>	<u>161</u>
103.	2501/ 29.03.1995	<u>Submission of periodical statement relating to cases pending in the Juvenile Justice Court.</u>	<u>162-163</u>
104.	4110(13)/ 26.05.1995	<u>Authorizing of all the Addl. Sessions Judges of the State to try and dispose of cases arising out of the N.D & P.S. Act, 1985 that would be made over to them by the Sessions Judges.</u>	<u>164</u>

VIII

105.	4951(13)/ 10.07.1995	<u>Withdrawal of Court's circular Letter No. 1495 dated 22.02.93 regarding recording of reasons of non-delivered of Judgment (final order) on the first date, by the Presiding Officers.</u>	165
106.	5458(13)/ 27.07.1995	<u>Maintenance of Trial Register in the Court of Session, Specially empowered for trial of cases, instituted under E.C. Act, S.C & S.T (Prevention of Atrocities) Act & N.D.P.S. Act.</u>	166
107.	5558/ 03.08.1995	<u>Exercise of effective control over the officers exercising Session power in their judgship</u>	167
108.	5869/ 16.08.1995	<u>Preservation of the records of N.D.P.S. Act cases disposed of by the Special Courts till the last Jail warrants received in the concerned Courts.</u>	168
109	7015/ 12.10.1995	<u>Desirability of issuing instructions to the Chief Judicial Magistrates and Sub-Divisional Judicial Magistrates to issue Court Certificate to the Official witnesses when Circuit Court of Special Judge, (Vigilance) is cancelled.</u>	169
110.	8024(13)/ 09.11.1995	<u>Maintenance of Register of Cases in which proceedings have been stayed in Form No. (R) -41 by the Courts of Session.</u>	170
111.	G.L No. 1 of 1996/ 05.02.1996	<u>Setting off the period of detention during investigation under Section 428 of the Code of Criminal Procedure.</u>	171
112.	1035/ 23.02.1996	<u>Sending of Exhibits in Cases under the N.D.P.S. Act to the F.S.L. for examination.</u>	172
113.	3141/ 13.05.1996	<u>Clarification regarding the Form to be used by the M.A.C.T. for issuance of certificate to the collector of the concerned district for execution of its award.</u>	173
114.	3592(13)/ 30.05.1996	<u>Judgment in Writ Petition (Civil) No. 1128/86 ("Common cause" registered Society through Its Director-Vrs.-Union of India & Others) regarding submission of reports appliance within 3 months in the High Court.</u>	174
115.	3636(30)/ 06.06.1996	<u>Submission of statistics and agenda for the District Judges' Conference by 30th Oct. every year.</u>	175-176
116.	3945/ 28.06.1996	<u>Strict compliance of instruction issued under letter No. 11534 dtd.26.11.84 and letter No. 4695 dtd.28.06.73 regarding delay in detention of UTPs due to non-compliance of Court's order in cases involving U.T.Ps.</u>	177
117.	5348(13)/ 03.07.1996	<u>Inclusion of Chief Judicial Magistrate in the monthly meeting of senior Officers.</u>	178

IX

118.	5764/ 19.08.1996	<u>Submission of statistics and agenda for the District Judges' Conference</u>	<u>179</u>
119.	5939/ 23.08.1996	<u>Proper maintenance of all registers maintained in the subordinate Civil & Criminal Courts.</u>	<u>180</u>
120.	6350(13)/ 09.09.1996	<u>Fixation of yardstick for disposal of cases under S.Cs and S.Ts (Prevention of Atrocities) Act, 1989 and N.D.P.S. Act, 1985.</u>	<u>181</u>
121.	6447 / 11.09.1996	<u>Forwarding the notification No. 16868, dtd.26.12.94 issued by the Labour & Employment Department Govt. of Orissa regarding appointment of joint/Deputy/ Assistant Labour Commissioners to hear and decide all claims arising out payment of Wages Act.</u>	<u>182-184</u>
122.	6680/ 19.09.1996	<u>Desirability to discontinue the practice of maintaining the Register of Intestate property (A)-24 (Civil) and Register of unclaimed property (R)-31 (Criminal).</u>	<u>185</u>
123.	6973/ 01.10.1996	<u>Filing of a memorandum at the time of hearing of bail petition.</u>	<u>186</u>
124.	6977/ 01.10.1996	<u>Extending the benefit of 1/5th deduction to all Addl. District and Session Judges.</u>	<u>187</u>
125.	7252(13)/ 10.10.1996	<u>Supply of certified copies of settlements arrived at Lok-Adalats to the parties free of cost.</u>	<u>188</u>
126.	7644/ 05.11.1996	<u>Desirability of evolving ways & means to prevent recurrence of loss/defalcation of valuable M.Os. from Court Malkhana.</u>	<u>189</u>
127.	226(13)/ 09.01.1997	<u>Refixation of yardstick for disposal of cases involving offence under I.P.C. triable by the courts of Sessions along with offences under S.C & S.T Prevention of Atrocities Act-1989.</u>	<u>190</u>
128.	1375(16)/ 21.02.1997	<u>Guidelines relating to provision contained in Sub-Section-6 of Section 158 of the M.V. Act, 1988.</u>	<u>191-193</u>
129.	1583(43)/ 28.02.1997	<u>Holding of monthly meeting of Senior Officers to find out ways and means and to solve various problems for expeditious disposal of Criminal Cases.</u>	<u>194-195</u>
130.	1744 (13)/ 04.03.1997	<u>Remand of accused under the N.D & P.S. Act.</u>	<u>196</u>
131.	3098/ 11.04.1997	<u>Maintenance of separate Criminal Fine Registrar (A)-17 for old fines (Court's Letter No. 8422 dtd.13.9.93 withdrawn.)</u>	<u>197</u>
132.	3267(14)/ 22.04.1997	<u>Registration of cases under the N.D & P.S. Act.</u>	<u>198</u>
133.	3268/ 22.04.1997	<u>Issuance of summons to search witnesses in G.R. Cases as a matter of course.</u>	<u>199</u>

X

134.	5151(14)/ 14.07.1997	<u>Deputation of Judicial officer in the event of absence of the Magistrates of a single stations either on leave or otherwise.</u>	<u>200</u>
135.	5665(14)/ 06.08.1997	<u>Submission of notes of inspection by the Chief Judicial Magistrates and (Court's letter No. 13729 dtd.9.12.81 withdrawn).</u>	<u>201-202</u>
136.	7084/ 30.09.1997	<u>Trial of Criminal Cases-handling of case diaries.</u>	<u>203</u>
137.	8617/ 09.12.1997	<u>Examination of witnesses in Criminal Cases absence of presiding officer.</u>	<u>204</u>
138.	8642/ 10.12.1997	<u>Maintenance of register in Juvenile Courts relating to cases of Juvenile offenders</u>	<u>205-206</u>
139.	8885/ 16.12.1997	<u>Speedy trial of cases of U.T.Ps. and Sessions Cases on day to day basis.</u>	<u>207</u>
140.	214(14)/ 12.01.1998	<u>Maintenance of Office records.</u>	<u>208</u>
141.	215(14)/ 12.01.1998	<u>Collection of information about progress of trial of Criminal Cases by the Police.</u>	<u>209</u>
142.	1843 / 05.03.1998	<u>Grant of certified copies of documents in claim cases to the Insurance Companies.</u>	<u>210-211</u>
143.	5573(42)/ 13.05.1998	<u>Amendment of section-15 of the provincial small cause Courts Act, 1887.</u>	<u>212-214</u>
144.	6106(14)/ 09.06.1998	<u>Transfer of antiquities to the State Museum lying in different malkhanas of the State.</u>	<u>215</u>
145.	6274(14)/ 22.06.98	<u>Visit of jails by the District & Sessions Judges for submission of report to the Court.</u>	<u>216</u>
146.	6627/ 17.07.98	<u>Modalities to be followed by the Criminal Courts at the time of granting bail.</u>	<u>217-220</u>
147.	8196/ 04.09.1998	<u>Empowering the Chief Judicial Magistrates and other Magistrates for trial of cases coming under Chapter-XXI, u/s.260 of the Code of Criminal Procedure, 1973 in Summary way.</u>	<u>221</u>
148.	8198/ 04.09.1998	<u>Maintenance of register in the Courts of M.A.C.Ts. to note the particulars of cheques received towards payment of compensation to the parties.</u>	<u>222-223</u>
149.	8199/ 04.09.1998	<u>Handing over the records to the Bench Clerk in G.R. Cases where final reports are being submitted.</u>	<u>224</u>
150.	8224/ 05.09.1998	<u>Change in the periodicity of inspection of Subordinate Courts by the Chief Judicial Magistrates and District Judges.</u>	<u>225</u>
151.	8774(14)/ 26.09.1998	<u>Deputation of Judicial Officer during the absence of Presiding Officer in a single station.</u>	<u>226</u>

XI

152.	9081(14)/ 17.10.1998	<u>Inclusion of D.F.Os. in the monthly meetings of the Senior Officers.</u>	<u>227</u>
153.	9324/ 28.10.1998	<u>Desirability of strict observance of Rule-119(1) & (3) of the police Manual Rules,1940 regarding testing of gold , silver and other valuable metals out of the panel of the goldsmith prepared by the C.J.M. and Superintendent of Police.</u>	<u>228</u>
154.	9394/ 30.10.1998	<u>Sending of information's by the Police Officers to Motor Vehicle Accident Tribunals in Motor accident cases modified vide Court's Letter No. 1211 dtd. 10.2.99.</u>	<u>229</u>
155.	9774/ 16.11.1998	<u>Desirability of allowing the Police Officials deputed from the office of C.S.I. for collecting information regarding progress of cases under Special Acts.</u>	<u>230</u>
156.	9777/ 17.11.1998	<u>Re-opening of case records which were placed in the dormant file on account of non-appearance of accused persons.</u>	<u>231</u>
157.	10759/ 21.12.1998	<u>Framing of Rules by the High Court of Orissa for Inter Country Adoption of Children by foreign Nationals. (The Collectors have been empower to hear and dispose of inter-country adoption cases vide law department Letter No. 11277 dated 11.10.2022).</u>	<u>232-234</u>
158.	1211/ 10.02.1991	<u>Preservation of G.R. Case records relating to Motor accident cases permanently.</u>	<u>235-236</u>
159.	3038/ 15.04.1999	<u>Consignment of disposed of M.A.C.T. records directly to the District Record Room by the preservation.</u>	<u>237</u>
160.	4235/ 29.05.1999	<u>Fixation of time limit for disposal of M.A.C.T., Cases.</u>	<u>238</u>
161.	4250(17)/ 29.05.1999	<u>Submission of quarterly report regarding proper implementation of provisions contained in section-158(6) of the M.V. Act to the Secretary, State legal Services Authority, Cuttack.</u>	<u>239</u>
162.	4376/ 07.06.1999	<u>Modification of General Letter No.1 of 1976 (Civil & Criminal) regarding exemption of Orissa Judicial service Class-II Officers from writing D.O. Letters directly to the Registrar, Orissa High Court in case the delay in delivery of Judgment.</u>	<u>240</u>
163.	4378/ 07.06.1999	<u>Modification of Court's Letter No. 51 dtd. 03.01.91.</u>	<u>241</u>
164.	4380/ 07.06.1999	<u>Proposal for amendment sec-245 (Cr.P.C.) of the Criminal Procedure Code</u>	<u>242</u>
165.	4451/ 11.06.1999	<u>Noting of order on disposal of Properties along with final order in Trial Register (R) 3 and Register of Sessions Cases (R) 23.</u>	<u>243</u>
166.	5523/ 22.07.1999	<u>Issuance of NBWs with detailed address & parentage of warrantees by the issuing Courts.</u>	<u>244</u>

XII

167.	7688/ 20.09.1999	Amendment to Rule-155 of the Orissa Treasury Code to the effect that the commission paid on money order for disbursement of witness batta be borne by the State.	245-246
168.	9771/ 22.09.1999	Circulation of Apex Court decision on passed in Raj Dec Shurma Vrs. State of bihar, decided on 22.9.99 reported in 1999 (4) crimes 52 (S.C)-reg. section 309 and 311 of Cr.P.C./W.Article 21 of constitution of India.	247
169.	8617/ 28.10.1999	Empowering the Addl. Dist. & Sessions Judges of the outlying stations to entertain election appeal u/s. 44(Q) of the Panchayat Samiti Act.	248
170.	252(14)/ 11.01.2000	Disposal of cases by the Chief Judicial Magistrates by holding Courts inside the Jail Premises pertaining to under trial prisoners involved in Petty Offences; References made by Hon'ble the Chief Justice of India.	249-251
171.	2020(14)/ 03.03.2000	Disposal of cases by the Chief Judicial Magistrates by holding courts inside the Jail Premises pertaining to under Trial Prisoners involved in petty offences.	252
172.	2200/ 09.03.2000	Disposal of seven years old cases.	253-256
173.	2348/ 10.03.2000	Submission of quarterly report on visit of jail by the District & Sessions Judges.	257
174.	3284/ 11.04.2000	Supply of certified copies of awards in M.A.C.T cases to the Parties concerned on the date, the awards are Pronounced.	258
175.	5474(14)/ 13.03.2001	Recommendations made by the committee on police reforms for expeditious disposal of cases.	259-261
176.	8446(14)/ 10.07.2001	Recommendations made by the committee on police reforms for expeditious disposal of cases.	262-263
177.	9656/ 24.08.2001	Service of summons and Execution of warrants in Forest and Excise Cases.	264
178.	10257(14)/ 11.09.2001	Disposal of the material objects in the Court Malkhana in respect of cases instituted prior to three years or more.	265
179.	10509(14)/ 19.09.2001	Supply of Judgment in Misc. Case No. 630 of 1998 in Criminal Revision No. 193/98 regarding return of warrants for release of the prisoner on bail to the Court of appeal or Revision on the inability of the prisoner to furnish the bail.	266
180.	4620(14)/ 05.06.2002	Adoption of uniform pattern of nomenclature for the different categories of cases being used in High Courts & Sub-ordinate Courts (C.L No.51 dtd.3.1.91 modified).	267-273
181.	4953/ 21.06.2002	Directions of the Supreme Court in CrI. Appeal No.535 of 2000 with C A No. 536-542 of 2000 (P Ramchandra Rao Vrs State of Karnatak)	274

XIII

182.	4747(14) / 13.06.2002	Direction of Supreme Court Judgment in Criminal Appeal No-535/2002 with Civil Appeal No.-536 to 542 of 2000 (P.Rama Chandra Rao Vrs. State of Karnatak) .	275-277
183.	4750(14)/ 17.06.2002	Submission of periodical statements in time by the Sub-ordinate Courts.	278
184.	9862(14)/ 30.11.2002	Transfer of original suits valued at more than rupees one lakh to .Fast Track Courts for trial.	279
185.	10344(14)/ 16.12.2002	Expeditious disposal of the cases relating to woman under Trial Prisoners Languishing in different Jails of judgeship and submission of report in this regard by end of each month.	280
186.	5855(14)/ 04.08.2003	Order dtd. 05.05.2003 of the Supreme Court of India passed in the Petition for Special Leave to Appeal (C) 9140 of 2003 regarding surprise check of all trial Courts.	281-284
187.	6475/ 28.08.2003	Implementation of Supreme Court Judgment passed in Crl. M.P. Nos. 4201/97, 4105/99, 2600-2601/2000 and 480/2001 and in writ Petition (Crl.) No. 539/86 and 592/87 (sri Dillip Kumar Basu etc.-vs-State of West Bengal and others) regarding completion of inquiry by Magistrates into cause of custodial death as envisaged by Section 176 Cr.P.C.	285
188.	7837(17)/ 21.10.2003	Judgments passed by the claims Tribunals as to the permission in terms of Section 170 of M.V. Act 1988 has been granted to the insurer or not.	286
189.	9390 / 17.12.2003	Direction of the Apex Court in Criminal Appeal No.508 of 1996(State of Maharashtra Vrs. Christian Community Welfare Council of India and another) regarding arrest of female accused persons.	287
190.	2381(14)/ 12.03.2004	Observation made on the monthly statements of the Fast Track Courts (FTC) for the months of September to December, 2003.	288
191.	4705(14)/ 19.05.2004	Revised yardstick for the Judicial Officers to assess their out-turn (modified vide Court's Notification 906/R dtd. 17.08.2020).	289-294
192.	7573(14)/ 11.08.2004	Observance of the year 2004 as "Arrear Clearance Year"	295
193.	7624(14)/ 12.08.2004	Visit of Chief Judicial Magistrates/S.D.J.Ms and Cognizance taking Magistrates of outlying stations to the Jail to find out under trial prisoners involved in petty offences and lodged in Jail longer the period of sentence.	296
194.	1076/ 03.09.2004	Declaration of the Chief Justice judicial Magistrates of the State as Principal Magistrates of the Juvenile Justice Boards by designation instead of by name.	297-298

XIV

195.	8562(14)/ 14.09.2004	Report submission of report-regarding names of Judicial Officer in respective Chambers in Court by 10.30 A.M. for being placed before the Hon'ble the Chief Justice.	299
196.	8979(14)/ 30.09.2004	Authorization to Additional Sessions Judges to have power of Sessions Judges in respect of cases u/s. 116(7), 193, 194, 209(a), 409 and 449 Cr.P.C.in view of Orissa Amendment of section 9 (3) of the Cr.P.C.	300-302
197.	8981(14)/ 01.10.2004	Discontinuance of maintenance of the Register of warrants of imprisonment in default of payment of fine (R) 5-A in the court of Sessions specially empowered to try cases instituted under S.C & S.T. (P.A) Act and N.D.P.S. Act.	303
198.	3175/ 30.04.2005	Regarding declaration alteration of holiday for the Judgeship	304
199.	7212/ 30.01.2006	Expeditious Disposal of UTP cases	305
200.	797(14)/ 04.02.2006	Resolution No.16577 dated 4.8.2005 by the Commissioner-cum-Secretary to Govt. of Orissa, Women and Child Development Department regarding enhancement of cost of maintenance @ Rs. 250/- per child per month of the Children below six years termed as deemed orphans residing with their mothers in different institutions both run by Government and N.G.Os.	306-312
201.	956/ 08.02.2006	Conducting of surprise check as per the observation of the Hon'ble Supreme Court made in order dated 5.5.2003 passed in Special Leave Appeal (C) 9140/2003.	313
202.	4774(14)/ 14.07.2006	Service of summons, notices and other Judicial processes etc. in Civil, Criminal and Commercial matters on the persons residing outside the geographical Limits of the Republic of India.	314-316
203.	5637(14)/ 21.08.2006	'The plight of juvenile Delinquents' - The Hon'ble port-folio Judge of the concerned district shall oversee the condition and functioning of the remand/observation established under Juvenile Justice (Care & protection of Children) Act, 2000	317
204.	8296(14)/ 04.12.2006	Establishment of C.I.D. Police Station and declaration of the Office of the S.P., C.I.D., C.B. as a Police Station in the State of Orissa for the purpose of investigation of Offences taken over by the C.I.D.	318-322
205.	318(14)/ 11.01.2007	Maintenance & cleanliness of Court Hazats.	323
206.	602(14)/ 24.01.2007	Constitution of a State Level Task Force on Child Labour to oversee the implementation of different provisions of Child Labour (Prohibitions & Regulations) Act 1986 & Programmes/Schemes relating to Child Labour.	324-326

XV

207.	3097(14)/ 05.05.2007	<u>Authorization of police Officers of the State Govt. for filing complaints against any of the Notary public to take cognizance of offence.</u>	<u>327-328</u>
208.	4342(14)/ 02.07.2007	<u>Suggestion made by the Chairman, Central Adoption Resource Agency for expeditious disposal of cases relating to adoption/guardianship of children living in different instructions.</u>	<u>329</u>
209.	5136/ 31.07.2007	<u>Instructions to the Collectors and Superintendents of Police to attend the monthly Senior Officers meeting regularly and visit the jails quarterly.</u>	<u>330</u>
210.	6806(14)/ 29.09.2007	<u>Release of U.T.P.s. on execution of personal bond who have been charged with the offences punishable by imprisonment for less than seven years, but are in jail custody for more than one year or two years vide order passed W.P. (C). No. 9086 of 2003 (Mrinalini Padhi Vrs. State of Orissa & others.) in the light of section 437 Cr.P.C.</u>	<u>331-335</u>
211.	8891(14)/ 21.12.2007	<u>Trial of cases of mentally ill & insane prisoners languishing in different jail & mental Hospitals of the State.</u>	<u>336</u>
212.	92(14)/ 05.01.2008	<u>Implementation of the provision of "Plea Bargaining" contained in Chapter XXI-A of the Cr. P.C. and informing the accused about such provision while issuing summons.</u>	<u>337-339</u>
213.	174(14)/ 08.01.2008	<u>Visit of jails by the District & Sessions Judges once in every month and at times surprise visit also made by them to find out the conditions of jails and of the inmates.</u>	<u>340</u>
214.	176/ 08.01.2008	<u>Visit of jails by the District & Sessions Judges once in every month and at times surprise visit also made by them to find out the conditions of jails and of the inmates.</u>	<u>341</u>
215.	185(14)/ 08.01.2008	<u>Verification of Observation /Remand/ Special Homes by the District & Sessions Judges.</u>	<u>342-343</u>
216.	428/ 17.01.2008	<u>Measures taken for improvement of prisons and status of U.T.Ps and expeditious disposal of their cases.</u>	<u>344-345</u>
217.	676(14)/ 28.01.2008	<u>Issuance of direction regarding strike and agitation made by the Members of different Bar Associations of the State, locking the Court premises thereby preventing the Judicial officers, staff and the litigant public from entering into Court premises.</u>	<u>346-347</u>
218.	1245(14)/ 18.02.2008	<u>Instructions regarding use of mobile phones by hardened prisoners for committing further crime like extortion.</u>	<u>348-351</u>
219.	2609(14)/ 07.04.2008	<u>Issuance of guidelines to the Special Judge (CBI), Special Judge (Vigilance) & Addl. Special Judge (Vigilance), etc. to preclude unwarranted adjournments and avoidable delays in trial of cases under Prevention of Corruption Act, 1988.</u>	<u>352-353</u>

XVI

220.	4453(100)/ 06.05.2008	<u>Submission of Annual Report 2007-2008 u/s. 25 of the Right to information Act. 2005.</u>	<u>354-355</u>
221.	4515(14)/ 09.05.2008	<u>Strictly adherence of instructions of this Court issued in G.L. 1 of 1986(Criminal) read with G.L 1 of 1993 (Criminal) and Court's Circular Letter No. 6806(14) dtd. 29.09.2007 in order to release of prisoners languishing in different jails for minor offences punishable up to 2 years of imprisonment.</u>	<u>356</u>
222.	4808(14)/ 19.05.2008	<u>Supply of data and insight to the members of the Task Force namely Dr. Amir Ullah Khan. Dr. Arnab Hazra and Mr. Bibhu Prasad Mohapatra to develop a methodology for the Judicial Impact Assessment of various laws passed by the parliament.</u>	<u>357-359</u>
223.	7278(6/ 22.08.2008)	<u>Expeditious disposal of the cases by the respective Principal Magistrates of the Juvenile Justice Boards.</u>	<u>360</u>
224.	7474(14) / 01.09.2008	<u>Orders dtd. 14.07.2008 passed by Hon'ble Supreme Court of India in Writ Petition (Crl.) No. 68 of 2008 (Lalita Kumari Vs. Govt. of U.P & Others) regarding registration of F.I.R. by the Police .</u>	<u>361-363</u>
225.	7749(14) / 09.09.2008	<u>Implementation of the provisions contained in Sections 436(1) & 436(A) of the Cr. P.C. regarding release of indigent prisoners on P.R. bond without sureties and release of prisoners on P.R. bond who have already undergone one half of the maximum period of punishment provided for the offence.</u>	<u>364-365</u>
226.	7753(14) / 09.09.2008	<u>Resolution passed by the Bar Council of India in a meeting held on 15.12.20017 regarding prohibition of practice of advocates in a Court, tribunal or Authority whose near relatives are presiding Officers in those Courts.</u>	<u>366</u>
227.	8813(14/ 31.10.2008)	<u>Submission of report as per order dt.3.9.2008 passed by the Hon'ble Supreme Court of India in W.P.(Crl) No.296/2005 with W.P.(C) No. 18/2006 regarding mentally ill and insane prisoners.</u>	<u>367</u>
228.	830/ 3.02.20009	<u>Taking adequate steps for reduction of arrears and speedy trial of cases</u>	<u>368</u>
229.	1382(14) / 25.02.2009	<u>Issuance of summons/Judicial process to the Diplomats working in the Embassies of Foreign States in India through the Ministry of External Affairs, Govt. of India.</u>	<u>369-370</u>
230.	1641(14/ 04.03.2009)	<u>Circulation of a copy of judgment dtd. 24.12.2008 passed in BLAPL No.9519 of 2008 regarding commitment of every case involving offence exclusively triable by the Court of Session within a stipulated period.</u>	<u>371-376</u>

XVII

231.	5110/ 04.08.2009	<u>Strict adherence of Notification No.9818 dtd. 7.8.1997 issued by Labour & Employment Department regarding disposal of cases u/s 15 of the Payment of Wages Act 1936 by the S.D.J.Ms & circulated to all District Judges vide Court's Memo No. 5111(14) dtd. 4.8.2009.</u>	377-378
232.	5452(14) / 18.08.2009	<u>Desirability of naming Magisterial Courts functioning in different district headquarters stations in the State in numerical order & assigning one or more police stations to each of such Courts.</u>	379
233.	5617/ 26.08.2009	<u>Registering the petitions filed by the Insurance Companies after the compensation is allowed in M.A.C.T. Cases as Misc. Cases and fixation of prescribed out turn.</u>	380
234.	6589(14) / 05.10.2009	<u>Expeditious disposal of cases pending in the Juvenile justice Board.</u>	381
235.	761(17)/ 02.02.2010	<u>Implementation of Order dtd. 17.12.2009 passed by the Hon'ble Supreme Court of India in Special Leave to Appeal (Civil) No.s-11801-11804 of 2005 (Jai Prakash Vrs. M/s National Insurance Co. & others) regarding streamlining the process of Motor Accident Claims cases.</u>	382
236.	6554 (14/ 17.08.2010)	<u>Desirability of change of mode of maintenance of Trial Register (R)-3 by all the Trial Magistrates.</u>	383
237.	8829 (14 / 22.11.2010)	<u>Submission of quarterly statement of monthly showing the information's regarding UTPs languishing in different jails of your judgeship for onward submission to Govt. of India in the Ministry of Law & Justice Deptt.</u>	384-385
238.	9553(14)/ 16.12.2010	<u>Order dated 18.8.1998 passed by Hon'ble the Supreme Court of India in Writ Petition (Crl). No.312 of 1994 (Supreme Court Legal Services Committee-Vrs.- Union of India & others) regarding providing free copy of the judgment of Sessions Court/Trial Court to the Prisoner/Convict through the Superintendent of jail concerned immediately within 30 days of pronouncement of the judgment.</u>	386-388
239.	1647(14)/ 28.02.2011	<u>Recommendation of the 2nd Administrative Reforms Commission (ARC) regarding issuance of guidelines in order to preclude unwarranted adjournment and avoidable delays in trial of cases.</u>	389
240.	3938(15)/ 23.05.2011	<u>Order dtd.21.04.2011 passed by the Hon'ble the Supreme Court of India in SLP(Civil) No. 11127/2011 not to entertain any petition involving challenge to the provisions of the National Green Tribunal Act, 2010 and the rules framed there under.</u>	390-393
241.	4251(15)/ 02.06.2011	<u>Law Department Notification No. 4710 dtd. 13.05.2011 regarding amendment of Part-III of the 1st Schedule of the Gram Nyayalaya Act, 2008.</u>	394-395

XVIII

242.	4754(15)/ 28.06.2011	<u>Launching of the “Mission Mode Programme” as a special drive for reduction of Pendency in Courts from 01.07.2011 to 31.12.2011.</u>	<u>396-397</u>
243.	5404(16)/ 19.07.2011	<u>Launching of the “Mission Mode Programme” as a special drive for reduction of pendency in Courts.</u>	<u>398</u>
244.	7580(19) 29.09.2011	<u>Judgment Dtd. 09.05.2011 passed by the Hon’ble the Supreme Court of India in Criminal Appeal No. 1117 of 2011 (Bhagawan Das Vs. State (NCT) of Delhi) relating to “Honour Killing”</u>	<u>399</u>
245.	8556(20)/ 16.11.2011	<u>Judgment dated 09.09.2011 passed by the Hon’ble Supreme Court of India in Criminal Appeal No. 1758 of 2011(R.D Bhasin Vs. State of Maharastra and another) regarding issuance of NBWs by the Subordinate Courts.</u>	<u>400</u>
246.	8772(20)/ 23.11.2011	<u>Service Abroad of Judicial and Extra-judicial Documents under the Hague Convention of 1965/Mutual Legal Assistance Treaties/ Reciprocal arrangements with foreign Countries in Civil and Commercial matters.</u>	<u>401-404</u>
247.	9559(20)/ 20.12.2011	<u>As per the Amendment of Orissa High Court Rules, Volume-1, 1948 use of Holograms on each sheet of paper used for preparation of certified copies and realization of the cost from the applicants.</u>	<u>405</u>
248.	3102(20)/ 10.04.2012	<u>Monthly meeting of Senior Officers.</u>	<u>406</u>
249.	3581(20)/ 26.04.2012	<u>Supply of free Copy of Judgments to the Vigilance Department in convicted cases.</u>	<u>407</u>
250.	5897(25)/ 26.07.2012	<u>Supply of copy of Final Order/Judgment to the Director, Forensic Science Laboratory in cases where Forensic Reports have been filed and discussed.</u>	<u>408</u>
251.	8078(26)/ 29.09.2012	<u>Compliance of directions issued by the Hon’ble Supreme Court in Criminal Appeal Nos. 1899-1900 of 2011 (Mohammad Ajmal Mohammad Amir Kasab@ Abu Mujahid Vrs. State of Maharashtra) decided on 29.8.2012.</u>	<u>409</u>
252.	10260(27)/ 14.12.2012	<u>Submission of quarterly Jail visit report by the District Committee reflecting rectification of the defects pointed out during the previous jail visit.</u>	<u>410</u>
253.	703(27)/ 22.01.2013	<u>Setting up of Courts of Sessions (Special Track courts) to deal exclusively with offences against women.</u>	<u>411</u>
254.	2302(27)/ 12.03.2013	<u>Apex Court’s order regarding disposal of cases under NDPS Act.</u>	<u>412</u>
255.	3085(27)/ 08.04.2013	<u>Judgment dtd.04.04.2013 passed by the Orissa High Court in CrI. Rev No. 161/2012 regarding trial of complaint cases under Section -138 of N.I. Act.</u>	<u>413</u>

XIX

256.	3104(27)/ 08.04.2013	Apex Court's direction in W.P.(C) No.349/2006 regarding disposal of all cases under the PN & PNDT Act within of six months.	414
257.	3220(27)/ 10.04.2013	Direction of the Apex Court in Criminal Appeal No. 1735/2009 to follow the procedure contained in Sec-231 r/w Sec-309 Cr. P.C. for expeditious trial of cases.	415
258.	4906(7)/ 20.06.2013	Disposal of Adoption Cases under Juvenile Justice (Care & Protection of Children) Act, 2000.	416
259.	5087/ 25.06.2013	Speedy disposal of cases under protection of Civil rights act, 1955 and SC & ST (Prevention of atrocities)Act, 1989	417
260	5330(30)/ 29.06.2013	Launching of the "3rd Mission Mode Programme" as a special drive for reduction of Pendency in Courts from 01.07.2013 to 31.12.2013 .	418-419
261.	6057(30)/ 17.07.2013	Apex Court's Judgment dtd. 03.05.2013 passed in Criminal Appeal No. 689 of 2013 (Ankush Shivaji Gaikwad vrs. State of Maharashtra) providing guidelines for awarding compensation u/s 357 Cr.P.C. in justified cases.	420
262.	7254/ 16.08.2013	Authorizing Session Judges and Addl. Sessions judges of the State to hear and dispose of cases u/s 36 (d) of NDPD Act, 1985.	421
263.	7313/ 19.08.2013	Disposal and pendency of cases relating to Women/ Juvenile and under prevention of Corruption Act, 1988 under your Judgeship	422-423
264.	8279/ 24.09.2013	Effective implementation of Juvenile Justice(C& PC) Act, 2000-Resolution of the Juvenile Justice Committee Dtd.17.09.2013-Reg.	424
265.	8967(30)/ 23.10.2013	Submission of Report regarding holding of P.M.C. Meetings between the Chief Judicial Magistrates and Superintendent of Police of the respective Districts during the year, 2013 (From January to October).	425
266.	9073(30)/ 25.10.2013	Guidelines for holding of meeting of Judicial Officer at least once in a month for discussion on Legal issues identified by the District Judge	426-427
267.	9249(30)/ 01.11.2013	Guidelines for disposal of more cases for reduction of backlog as a Special drive.	428-429
268.	9378(30)/ 06.11.2013	Expeditious disposal of cases in terms of Sec.309 Cr. P. C.	430-431
269.	9756(30)/ 21.11.2013	Issuance of instruction regarding holding of judicial proceedings of sensitive matters relating to Intelligence Agencies such as R & AW in camera.	432

XX

270.	9763(30)/ 21.11.2013	<u>Instructions for conducting inquiry by the Judicial Officers under Section-176 (I-A) of the Cr. P.C. in case of disappearance or death of a person/ woman in the custody.</u>	<u>433</u>
271.	9893(30)/ 27.11.2013	<u>Allocation of duties to the head Typist working in the District and Sub-Ordinate Courts.</u>	<u>434-435</u>
272.	1264(30)/ 07.02.2014	<u>Apex Court's direction in Criminal Appeal No. 259/2009 dtd. 20.01.2014-in cases where poisoning is suspected it is to ensure by the Criminal Court's that the viscera is sent to FSI and FSL report is obtained.</u>	<u>436</u>
273.	1369(27)/ 10.02.2014	<u>Appointment of Addl. District Judges as visitors to visit Observation Homes & Special Homes as well as the Children Homes of the State.</u>	<u>437</u>
274.	3827(30)/ 26.04.2014	<u>Instructions/ Guidelines for day to day business of the Civil & Criminal Courts of the State.</u>	<u>438-440</u>
275.	3995(30)/ 01.05.2014	<u>Holding of monthly meeting of Senior Officers to find out ways and means and to solve various problems for expeditious disposal of Criminal cases.</u>	<u>441</u>
276.	6156(30)/ 16.07.2014	<u>Apex Court's judgment Dtd. 02.07.2014 passed in Criminal Appeal No 1277 of 2014 (Arnesh Kumar Vrs. State of Bihar and Anr.)-dealing with cases u/s 498-A I.P.C.</u>	<u>442</u>
277	6456(30)/ 24.07.2014	<u>Furnishing certificate in the Bail Petition filed under Section-439 of Cr. P.C High Court Order Dtd.07.07.2014 passed in BLAPL No. 11734 of 2014</u>	<u>443-445</u>
278.	7927/ 05.09.2014	<u>Timely submission of periodical statements.</u>	<u>446</u>
279.	8017(44)/ 09.09.2014	<u>Reflecting status of accused person(s) in the judgment as to whether in custody/ on bail/ absent/present in the order sheet of the case record.</u>	<u>447</u>
280.	9921(30)/ 18.11.2014	<u>Implementation of guidelines issued by the Govt. of India, Ministry of Home Affairs(C.S Division), New Delhi on reckoning half-life of time spent in Judicial custody of UTPs u/s -436-A of Cr. P.C.</u>	<u>448-451</u>
281.	10272(30)/ 29.11.2014	<u>Sharing of information relating to status of the applications made under the PWDV Act, 2005, with the Protection Officers</u>	<u>452-454</u>
282.	10898(30)/ 19.12.2014	<u>Expeditious disposal of pending cases in different Courts up to the year 2010 within six months and cases beyond the year 2010 within nine months</u>	<u>455</u>
283.	829(30)/ 31.01.2015	<u>Directives of the Hon'ble Supreme Court of India Dtd. 21.01.2015 passed in Criminal Appeal No.554/2012 (Vinod kumar Vrs State of Punjab) regarding procedures to be followed and avoidance of unwarranted adjournments in criminal trials.</u>	<u>456</u>

XXI

284.	3858(30)/ 24.04.2015	Apex Courts Judgment Dtd.19.03.2015 passed in Criminal Appeal No.781 of 2012 (Priyanka Sribastava Vrs. State of U.P & Ors) - dealing with cases u/s -156(3) Cr.P.C.-reg. dealing with the cases under SARFAESI Act, 2002.	457
285.	6045/ 17.07.2015	Engagement of State Defense Counsel and maintenance of a register for payment of fees against the bills submitted by the state defense Counsel	458
286.	6340(30)/ 27.07.2015	Judgment Dtd. 02.07.2015 passed in Criminal Appeal No. 249/1992 (Benudhar Mahalik and Anr Vrs. State of Orissa).reg.	459
287.	6624(30)/ 31.07.2015	Maintenance of “Common Register to identify the factors that cause delay in the administration of criminal justice”.	460-461
288.	8231/ 21.9.2015	Compliance of the direction of the SCMS Committee	462
289.	9070(30)/ 14.10.2015	Order No.2 dated 13.10.2015 of the Hon’ble Court passed in BLAPL No. 5472 of 2015(Shayam Sundar singh Vs. State of Odisha) directing the courts to furnish the complete order to the accused free of cost while rejecting his bail application.	463-464
290.	9466(47)/ 28.10.2015	Disposal of adoption cases.	465
291.	9604/ 02.11.2015	Submission of monthly progress report regarding action taken on the plan of action furnished in your vision document prepared in the light of directives of the NCMS and the vision document prepared by the High Court	466
292.	632/ 20.01.2016	Resolution passed in the meeting of the State Court Management System (SCMS) Committee held on 07.01.2016	467-468
293.	1056(30) / 02.02.2016	Preparation of information regarding criminal cases placed to dormant file.	469
294.	3585(30)/ 27.04.2016	Supreme Court Judgment dated 30.03.2016 passed in W.P. (C) No. 235/2012 (Save Life Foundation & Anr. Vrs Union of India & Anr.) regarding protection of accident victims and Good Samaritans.	470
295.	4927(30)/ 22.06.2016	Fast tracking of matters relating to Crime against women, children, differently-abled persons, senior citizen and marginalized sections of society	471
296.	4928(30)/ 22.06.2016	Disposal of the cases of Under Trial Prisoners pending for over three years on top priority basis	472
297.	11104/ 14.12.2016	Submission of report regarding maintenance and regular verification of Register (R)-5 (Criminal)	473-474
298.	204/ 05.01.2017	Compliance of the resolution of the State Court Management Systems (SCMS) Committee held on 20.12.2016	475

XXII

299.	5469(30)/ 30.01.2017	<u>Proposal for disposal of seizure of property by Judicial Officers/ Court.</u>	<u>476-480</u>
300.	1547(30) / 17.02.2017	<u>Observation of the Chairperson, National Human Rights Commission, New Delhi</u>	<u>481</u>
301.	2680(30)/ 08.03.2017	<u>D.O letter Dtd. 03.02.2017 received from Hon'ble Mr. Ravi Shankar Prasad, Minister, Law & Justice and Electronics & IT, Govt. of India, New Delhi regarding review of all cases relating to UTPs pending in the Judgeship.</u>	<u>482-484</u>
302.	3031(30)/ 16.03.2017	<u>Non-intimation of fact of stay realization of fine amount to the jail authority.</u>	<u>485</u>
303.	3176/ 31.03.2017	<u>Order Dtd. 09.03.2017 passed by Hon'ble the Supreme Court of India in Crl. Appeal No.-509/2017 arising out of SLP (Crl.) No. 4437/2016 (Hussain and another Vrs Union of India) with Criminal Appeal No. 511/2017 (Aasu Vrs. State of Rajasthan)</u>	<u>486</u>
304.	7033(30)/ 18.07.2017	<u>Action Plan for sub-ordinate Courts for reducing pendency of 5 year old cases to zero with reference to kind minutes Dtd. 22.04.2017 of the Arrears Committee for Supreme Court and High Court.</u>	<u>487-488</u>
305.	8744/ 05.09.2017	<u>Follow-up action on the resolutions passed in the Arrears Committee for Supreme Court and High Court with all the Chief justices of the High Court held on 22.07.2017 in the Supreme Court of India</u>	<u>489</u>
306.	13234(30)/ 22.12.2017	<u>Supreme Court judgment dtd. 28.11.2017 passed in Crl. Appeal No. 2045-46/2017 (Doongar Singh & Ors Vrs State of Rajasthan) with Crl. Appeal No. 2047/2017 (Narain Chandelia & Ors Vrs State of Rajasthan) for dealing with the cases u/s -309 of the Cr. P.C.</u>	<u>490</u>
307.	66/ 02.02.2018	<u>Submission of monthly Statistical Data online relating to disposal of 10 year/ 5 year of UTP cases on or before the 5th day of each succeeding month.</u>	<u>491</u>
308.	2448(30) / 12.03.2018	<u>Notification No. 674 Dtd. 27.01.2018 regarding protection of Good Samaritans.</u>	<u>492-498</u>
309.	6309(30)/ 27.06.2018	<u>Compliance of direction of Hon'ble the Supreme Court of India Dtd. 25.04.2018 in Criminal Appeal Nos. 1375-1376 of 2013 (Asian Resurfacing of Road Agency pvt. Ltd and another Vrs. CBI) directing the Subordinate Courts to retain the original case record and to submit the photo copy/scanned copy of the record to the Appellate / Revisional Court instead of the original one unless the said original record is specifically requisitioned by that Court.</u>	<u>499</u>

XXIII

310.	9094(30)/ 31.08.2018	<u>Uploading the information regarding constitution of Internal Complaints Committee of your judgeship in your own website.</u>	<u>500</u>
311.	9888(30)/ 18.09.2018	<u>Inclusion of the matter regarding pendency of NBW issued in Sessions Cases awaiting commitment as a separate agenda in the monthly meeting of Senior Officers.</u>	<u>501-502</u>
312.	11644(30)/ 09.11.2018	<u>Authorization to the trying Magistrates for holding of Courts inside the jail premises to dispose of the cases where the maximum period of imprisonment is 3 years.</u>	<u>503</u>
313.	11645/ 09.11.2018	<u>Submission of relevant documents at the time of filing counters / petitions by the Govt. Officials.</u>	<u>504</u>
314.	11646/ 09.11.2018	<u>Commitment of every case involving offences exclusively triable by the court of Sessions within a stipulated period, not beyond six months from the date of submission of final form.</u>	<u>505</u>
315.	12427(30)/ 05.12.2018	<u>Authorization to the trying Magistrates for holding of Courts inside the jail premises to dispose of the cases where the maximum period of imprisonment is 3 years.</u>	<u>506</u>
316.	489(30)/ 10.01.2019	<u>Order Dtd. 28.03.2018 by Hon'ble the Supreme Court of India in Crl. Appeal No. 1375-1376 of 2013(Asian Resurfacing of Road Agency pvt. Ltd and another Vrs. CBI) regarding stay will be automatically lapsed after six months unless extended by a speaking order.</u>	<u>507</u>
317.	2501(30)/ 20.02.2019	<u>Supreme Court's Judgment Dtd. 24.03.2015 passed in W.P. (Crl.) No. 167 of 2012 (Shreya Singhal Vrs. Union of India) regarding implementation of the provisions under IT (procedure & safeguards for blocking for access of information by public) Rules, 2009 which are constitutionally valid.</u>	<u>508</u>
318.	11991/ 30.09.2019	<u>Timely submission of complete, accurate and uniform statistical figures to different Branch/ Sections of the Hon'ble Court by the District & Sub-ordinate Courts of the State</u>	<u>509-510</u>
319.	11992/ 30.09.2019	<u>Pendency and Disposal of 5/10/25 year old case</u>	<u>511</u>
320.	12156(30)/ 03.10.2019	<u>Order Dtd. 20.09.2019 the Orissa High Court passed in BLAPL No. 5845 of 2019(Bhagabati Behera-Vs.-State of Odisha).</u>	<u>512-514</u>
321.	12670(30)/ 23.10.2019	<u>Order dtd. 27.09.2019 of Hon'ble the High Court of Orissa passed in BLAPL No. 6501 of 2019 (Sanjaya Jena-Vs.-State of Odisha) directing the District Judges to take up the matter in the senior Officers meeting with the Superintendent of Police in term who will impress the I.Os/Inspectors In-charge to prevent on Authorized availability of statement of the victim.</u>	<u>515-517</u>

XXIV

322.	14309/ 21.11.2019	Monthly pendency and disposal of 5/10 year old cases... regarding reiteration of "Action Plan".....assessment of the Action Plan fortnightly in the DCMS Committee Meetings	518-522
323.	3468/ 02.03.2020	T.I parade Guidelines as per Supreme Court Judgment passed in Crl. Appeal Nos. 62-63 of 2014 (Anokhilal Vrs. State of MP)	523
324.	3562/ 03.03.2020	Implementation of the direction of Hon'ble the SCMS Committee meeting held on 20.02.2020	524-525
325.	6595/ 13.07.2020	Submission of report showing pendency and Disposal of cases pending for more than 25 years old (both civil & criminal side)	526
326.	7508(30)/ 14.08.2020	Furnishing special certificate along with their quarterly jail visit report showing the number of convict detained in jail custody beyond the period of sentence imposed on him.	527
327.	Notification No. 906/R/ 17.08.2020	Revised yardstick of Judicial Officers for assessment of Judicial work circulated to all concerned vide memo No. 7533 (60) dated 17.8.2020.	528-532
328.	12319(30)/ 23.12.2020	Regarding remand and production of accused and filing of charge sheet in view order dtd.04.12.2020 passed by Hon'ble the High Court of Orissa in CRLREV No. 451 of 2020 (Laxmidhar Behera Vrs State of Odisha).	533
329.	789(30)/ 19.01.2021	Designation of a complaint officer under Section-11 of the Transgender persons (Protection of Rights) Act, 2019 to deal with the complaints relating to violation of the provisions of the said Act.	534-535
330.	1074/ 25.01.2021	Interaction of Hon'ble the Chief Justice in presence of Hon'ble Kumari Justice S.Panda and Hon'ble Sri Justice S.K. Mishra with all Principal District Judges of the State held on 11th & 12th January, 2021 through Video Conference	536-537
331.	2977/ 04.03.2021	Preparation of Case Calendar in Criminal Cases and to adhere it strictly for disposal of Cases	538-539
332.	3121/ 05.03.2021	Observation of the Hon'ble Court relating to the cases pending for more than 10 years in the Subordinate Courts of the State due to stay orders passed by the Hon'ble Court	540
333.	3773/ 18.03.2021	Submission of Compliance report of disposal of 25/40 years old cases from 04.03.2021 to 18.03.2021	541-542
334.	3824/ 19.03.2021	Observation made by this Court in pursuance of Interaction of Hon'ble the Chief Justice with some judgship through Video Conference on 17th March, 2021	543-544
335.	3953/ 24.03.2021	Information pertaining to 25 to 40 years/ over 40 year old cases	545

XXV

336.	RJ/ 364/ 15.04.2021	<u>Withdrawal of instructions regarding submission of monthly statement in respect of applications U/s. 438 of Code of Criminal Procedure, 1973</u>	<u>546</u>
337.	5362(30)/ 23.04.2021	<u>Expedition trial of cases under Section 138 of N.I. Act-Order of Hon'ble Supreme Court of India in SMWP (CrI.) No. 2/2020.</u>	<u>547</u>
338.	19917/ 21.02.2022	<u>Supply of Annual information relating to "Average time taken for Disposal of cases"</u>	<u>548</u>
339.	4486/ 16.03.2022	<u>Statement showing pendency and disposal of cases pending for more than 25 years</u>	<u>549-550</u>
340	12841(30)/ 22.08.2022	<u>Supreme Court Order Dtd.25.04.2022 passed in M.A. No.706 of 2022 in M.A. No.1577 of 2020 arising out of Criminal Appeal Nos.1375-1376 of 2013 passed (Asian Resurfacing of Road Agency P. Ltd. And Anr. Vrs. Central Bureau of Investigation)</u>	<u>551</u>
341.	15706/ 14.10.2022	<u>Judgment Dated 11thJuly, 2022 of the Hon'ble Supreme Court of India passed in M.A. No .1849 of 2021 arising out of SLA (CrI) No(s). 5191 of 2022 (Satender Kumar Antil Vrs. Central Bureau of Investigation & Anr.)</u>	<u>552</u>
342.	16042(58)/ 20.10.2022	<u>Transfer of adoption cases from the court of District judges to the District Magistrates (Collector) of the State.</u>	<u>553-554</u>
343.	16540/ 31.10.2022	<u>Revised information relating to "Average time taken for Disposal of cases"</u>	<u>555-556</u>
344.	RJ 166/ 30.11.2022	<u>Issuance of instructions pursuant to Order No. 11 dated 05.08. 2022 passed by the Hon'ble Court in BLAPL No. 1670 of 2022</u>	<u>557</u>
345.	18911/ 05.12.2022	<u>Judgment dtd. 07.11.2022 passed in Criminal Appeal No. 1926 of 2022 arising out of SLP (CrI.) No.9288 of 2022 (P. Ponnusamy Vs. The State of Tamil Nadu)</u>	<u>558</u>
346.	20068/ 22.12.2022	<u>Specifying one Court each in the Cadre of J.M.F.C., A.C.J.M. or C.JM and the Court of Sessions in each District as well as nominating the Nodal Officers for monitoring the exercise in compliance of the Order dated 14.09.2022 passed by the Hon'ble Supreme Court of India in Suo Moto Writ Petition (Criminal) No.4 of 2021.</u>	<u>559</u>
347.	2761(30)/ 16.02.2023	<u>Compliance of order dated 31.01.2023 passed by Hon'ble Supreme Court of India in SMWP (Criminal) No. 4/2021.</u>	<u>560</u>
348.	5261/ 29.03.2023	<u>Transfer of bail application filed under Section 439 Cr.P.C. to other Sessions Courts by the Sessions Court (I/c).</u>	<u>561</u>
349.	5270/ 29.03.2023	<u>Monthly visit of the jails situated at the outlying stations by the Additional District Judges.</u>	<u>562</u>

XXVI

350.	5274/ 29.03.2023	Disposal of applications under Section 438 of Cr. P.C.	563
351.	5774/ 12.04.2023	Prioritize old cases, Execution and GIA cases for expeditious disposal and disposal of 5 to 6 appeals every week	564
352.	5778/ 12.04.2023	Instructions in pursuance of the Resolution of District Judges' Conference, 2023	565-566
353.	5781/ 12.04.2023	Instructions in pursuance of the Resolution of District Judges' Conference, 2023	567-568
354.	5785/ 12.04.2023	Instructions in pursuance of the Resolution of District Judges' Conference, 2023	569-570
355.	5789/ 12.04.2023	Instructions in pursuance of the Resolution of District Judges' Conference, 2023	571-572
356.	5792/ 12.04.2023	Conducting hybrid hearing of cases and making plan for their early disposal	573
357.	5804/ 12.04.2023	Prioritize the year old cases for expeditious disposal	574
358.	No.5963/ 17.04.2023	Government Calendar to be followed by the Juvenile Justice Boards functioning in the State of the Odisha	575
359.	6320/ 24.04.2023	Forwarding the order Dtd. 21.03.2023 passed in M.A. No.2034/2022 in M.A. No. 1849 of 2021 in SLP (Cr.) No. 5191 of 2021 (Satender Kumar Antil Vrs. C.B.I. & Anr) by the Hon'ble Supreme Court of India.	576
360.	13300/ 18.08.2023	Compliance of order dated 25.07.2023 passed by Hon'ble Supreme Court of India in SMWP (Criminal) No. 4/2021	577
361.	6438/ 25.04.2023	Orissa High Court Judgement Dtd.27.02.2023 passed in W.P. (C) No.17358 of 2022	578
362.	10440/ 07.07.2023	Supply of annual information relating to "Average Time Taken for Disposal of cases".	579
363.	No.13132 16.08.2023	Implementation of judgment dated 31st July, 2023 passed by Hon'ble the Supreme Court of India in Criminal Appeal No(s). 2207/2023 arising out of Special Leave Petition (Cr.) No.3433 of 2023 (Md. Asfak Alam Vrs. The State of Jharkhand & Anr.).	580
364.	15262/ 26.09.2023	Judgment dated 4th September, 2023 passed in Criminal Appeal Nos.1271-1272 of 2018 (Munna Pandey Vrs. State of Bihar) by Hon'ble the Supreme Court of India	581
365.	15725/ 05.10.2023	Order dated 18.01.2023 passed in CRLREV No.422 of 2022 (Yudhistir Tanty Vrs. State of Odisha)	582
366.	15726/ 05.10.2023	Judgment dated 18.01.2023 passed in JCRLA No.21/2019 (Guru Charan Mahanta Vrs. State of Odisha)	583

No. 2933/ Dated 30.03.1988

From

Shri A.V.Rama Rao,
Registrar (Administration)

To

All the District and Sessions Judges of the State.

Sub: Holding of monthly meeting of judicial officers to discuss about the problem concerning to that Court.

Sir,

I am directed to invite reference to Court's Letter No. 9108 dated 9th September, 1985 in which instructions have been issued that the District Judges shall call a meeting all the Judicial Officers working under them on the First Saturday of each month and if the Saturday be a holiday on the day preceding and discuss about the problems concerning each Court and to evolve ways and means to dispose of old pending matters. In the District Judges' Conference, 1988 the question of modification of the aforesaid instruction came up for discussion under item No. 16 in view of the discontinuance of practice of observance of administrative day by the Judicial Officers in the subordinate courts.

2. The Court on a reconsideration of the matter, and in modification of Court's Circular Letter indicated above have been pleased to direct that the District and Sessions Judges shall hold a monthly meeting of all the Judicial Officers posted at the District Headquarters on any Saturday preferably the last Saturday of every month. However, such meetings with respect to the officers posted at the out-lying stations should be similarly held when the District and Sessions Judge happens to visit those places for holding Circuit Courts. Officers posted at Stations where no such circuit courts are held should be directed to participate in the meetings either at the Headquarters or at the nearest place of Circuit, whichever is considered more convenient, according to the prevailing local conditions in the Judgeship concerned.

I am, accordingly, to request that the above instructions may strictly be observed.

Yours faithfully,
A.V.RAMA RAO

REGISTRAR (ADMINISTRARTION)

No. 3292 / Dated 07.04.1988

From

Shri P.K. Panigrahi,
Registrar (Inspection)

To

All the District and Sessions Judges of the State.

Sub: Delay in submission of compliance reports on the note of Inspection.

Sir,

I am directed to say that from time to time instructions have been issued by the Court insisting on timely submission of reports of compliance relating to the inspection of subordinate courts, but to no appreciable effect. Delay in submission of compliance reports has become chronic and is, to a great extent, attributable to callousness on the part of the district administration, in particular, the Registrars, Civil & Sessions Courts on whom rests the primary responsibility of ensuring prompt compliance by the subordinate Judicial officers and thereby the very purpose of inspection stands frustrated.

2. With a view to curbing this persistent malady, the court are pleased to decide that henceforth delay in submission of compliance reports would be adversely viewed.

Yours faithfully,
P.K. PANIGRAHI
REGISTRAR (INSPECTION)

No. 3624 / Dated 19.04.1988

From

Shri P.K. Panigrahi,
Registrar (Inspection)

To

The District and Sessions Judges..... (all)

Sub: Speedy disposal of Jail Criminal Appeals/ Revisions

Sir,

I am directed to say that for smooth and speedy disposal of Jail Criminal appeals/ Revisions the Court are pleased to direct that if appeal memoranda and Revision petitions received from the Jail are not accompanied by applications for grant of legal aid and vakalatnamas duly executed by the appellants / petitioners, intimation should forthwith be issued from the office to the concerned Jail Superintendents for submitting the said papers.

I am, accordingly, to request that the above instruction should be strictly followed in future.

Yours faithfully,
P.K. PANIGRAHI
REGISTRAR (INSPECTION)

No. 10085(13)/ Dated 22.08.1988

From

Shri P.K. Panigrahi,
Registrar (Inspection & Enquiry)

To

The District and Sessions Judges of the State.....(all)

Sub: Furnishing security bonds by the Staff of the Civil And Criminal Courts.

Sir,

I am directed to invite reference to item No. 17 of the proceedings of the District Judge's Conference held in December, 1986 and to say that the Court in agreement with the resolution passed in the conference are pleased to direct that the staff of the Civil and Criminal courts should furnish security in the manner indicated hereunder:-

- 1) The clerks handling records should furnish cash security and the amount of security be fixed at Rs. 1000/-
- 2) The Nazir and Malkhana Clerk should furnish cash security in addition to fidelity bonds and the amount of cash security be fixed at Rs. 2000/-.
- 3) The stenographers and Typists other than those attached to the copying establishment should furnish security by way of fidelity Insurance Bonds as per the instructions contained in Court's letter No. 10048, dated 27.9.84.

I am, to request that the above instructions may be brought to the notice of the subordinate Civil And Criminal courts under your control for information and guidance.

Yours faithfully,
P.K. PANIGRAHI
REGISTRAR (I & E)

No.11692 / Dated 28.09.1988

From

Shri P.K. Panigrahi,
Registrar (I. & E.)

To

All the District and Sessions Judges of the State.

Sub: Mentioning the age of the detenu in the Jail Warrant.

Sir,

I am directed to refer to the Judgment of the Supreme Court reported in A.I.R. 1988, S.C.414 (Sanjaya Suri and another- Vrs- Delhi Administration, Delhi) and to request that the attention of the subordinate courts may be drawn to the observations contained therein about mentioning the age of the detenu in the Jail Warrant. The prosecuting agencies are being suitably instructed to mention the age of the accused not only in the Charge Sheets and Prosecution Reports but also in the Forwarding Reports, after proper assessment. Practical difficulties, if any, faced by the Magistracy in carrying out the mandate of the Supreme Court may be brought to the notice of the Court.

Yours faithfully ,
P.K. PANIGRAHI
REGISTRAR (I & E)

GOVERNMENT OF ORISSA
HOME DEPARTMENT: SPECIAL SECTION

No. 778/C .,

From:

Tarun Kanti Mishra, I.A.S.,
Addl. Secretary to Government.

To

The Director General of Police, Orissa, Cuttack
The Inspection General of Prisons, Orissa, BBSR.
All District Magistrates
All Superintendents Jails, Special Jails and Sub-Jails.

Sub: Arrest, detention, release etc., of members of Orissa Legislative Assembly.

Sir,

I am directed to invite reference to the earlier instructions of the Government issued from time to time pointing out the imperative need of sending immediate information to the speaker of Orissa Legislative Assembly in all cases of arrest, detention and release etc. of a Member of Legislative Assembly under Rule 154 and 155 of the rules of Procedure and Conduct of Business in the Orissa Legislative Assembly and say that the concerned authorities have failed to follow the prescribed procedure on some occasions in the past in spite of instructions in the matter. Recently in one case the Government was put to considerable embarrassment for failure on the part of the concerned authority in intimating release of an M.L.A. from Jail custody. Therefore the relevant instructions on this subject are again summarized below.

Arrest: Rule 154 provides that " when a member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under an executive order the committing Judge, Magistrate or executive authority, as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction, as the case may be, as also the

place of detention or imprisonment of the member in the appropriate form set out in the Schedule I”.

Whenever a Police Officer is required to arrest a member of Legislative Assembly in execution of an warrant or order of detention or suo-motu in exercise of his powers under any Law, both the Officer-in-Charge of the Police Station concerned and the S.P. of the district should forthwith intimate the fact of arrest to the Speaker by Telegram/ Wireless. This should be followed by a written communication in the proforma prescribed under Schedule-I of the said Rule by the District Superintendent of Police.

Release :- Rule 155 provides that “when a member is arrested and after conviction released on bail pending an appeal or otherwise released, such fact shall also be intimated to the Speaker by the concerned authority in the appropriate form set out in Schedule – I”. As specified in prescribed form, the authority in this case for intimating the fact of release is Judge/ Magistrate or Executive Authority.

When a member arrested by a Police Officer is released on bail by such Police Officer/ by Court, the fact of release should be intimated both by the Officer-in-Charge of the concerned Police Station and the Superintendent of Police of the District or Judge/ Magistrate as the case may be by Wireless/ Telegram to the Speaker. This should be followed by a written communication in the prescribed proforma by the Superintendent of Police of the District or Judge/ Magistrate as the case may be.

When ever a member is released from Jail custody either by an order of the court or completion of term of conviction the fact of such release should forthwith be reported to the Speaker by the Superintendent of Jail, Special Jail or Sub-Jail from which the member is released by Telegram/ Wireless followed by a written communication in the prescribed proforma under Schedule-I of the said rule.

The information should invariably include the date, time and place of arrest, the relevant provision of Law under which the arrest is made, the authority who ordered the arrest, the place where the member is lodged after arrest, if remanded and the name and designation of the intimating authority.

While intimating the fact of release on bail or from Jail custody, the intimation should include the date and time and place of release, the authority who ordered for release, and the name and designation of the intimating authority.

All intimations about arrest, detention, release etc. of a member of O.L.A. addressed to the Speaker should be reported to the Secretary to Government, Home Department.

A copy of rule 154 & 155 of the Rules of Procedure and Conduct of Business in the O.L.A. along with a copy of schedule-I are enclosed for ready reference.

I am to request you to bring the above instructions to the notice of all concerned for strict compliance in future.

Receipt of the Letter along with its enclosures may please be acknowledged.

Yours faithfully,

Tarun Kanti Mishra.

ADDL. SECRETARY TO GOVERNMENT

EXTRACTS FROM THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE
ORISSA LEGISLATIVE ASSEMBLY

Intimation to Speaker of arrest, detention etc. release of a member.

154. When a member is arrested on a criminal charge or for a criminal offences or is sentenced to imprisonment by a Court or is detained under an executive order the Committing Judge, Magistrate or Executive Authority, as the case may be, shall immediately intimate such fact to the Speaker indicating the reason for the arrest, detention or conviction, as the case may be, as also the place of detention or imprisonment of the member in the appropriate form set out in the Schedule-I.

Intimation to Speaker
by Magistrate of arrest,
detention, etc.
of a member.

155. When a member is arrested and after conviction released on bail pending an appeal or otherwise released, such fact shall also be intimated to the Speaker by the concerned authority in appropriate form set out in the Schedule-I.

Intimation to
Speaker on release
of a member.

SCHEDULE-I

(See Rules 154 and 155)

Forms of communication regarding arrest, detention, conviction or release, as the case may be of member.

Place.....

Date.....

To

THE SPEAKER
ORISSA LEGISLATIVE ASSEMBLY,
NEW CAPITAL BHUBANESWAR.

DEAR MR. SPEAKER,

A

I have the honour to inform you that I have found it my duty, in the exercise of my powers under sectionof(Act), to direct that Shri..... M.L.A., be arrested/**detained** for/**detained** (reasons for the arrest or detention as the case may be)

Shri..... M.L.A., was accordingly arrested/ **taken into custody** at (time) on (date) and as at present lodged in the Jail(place).

B

I have the honour to inform you that Shri.....M.L.A., was tried at the Court before me on a charge (or charges) of(reasons for the conviction).

On_____ (date) after a trial lasting for _____ days, I found him guilty of _____ and sentenced him to imprisonment for _____(period) (His application for leave to appeal * _____ is pending consideration)

C

I have the honour to inform you that Shri..... M.L.A., who was convicted on..... (date) and imprisoned for (period) for (reasons for conviction) was released on bail pending appeal for, as the case may be released on the sentence being set aside on appeal on the(date).

Yours faithfully,

(Judge, Magistrate or Executive Authority)

*Name of the Court.

No. 12047 / Dated 03.10.1988

From

Shri A.V. Rama Rao,
Registrar (Admn.)

To

All the District & Sessions Judges of the State.

Sub: Disposal of year-old pendency both on civil and Criminal side.

Sir,

I am directed to refer to the Resolution passed in Para 11 and 14 of Item No.1 of the District Judges' Conference of the year 1987 (held in January, 1988) in the matter of reduction of year-old cases both on the civil and criminal sides.

The Court after careful consideration have been pleased to concur with the said decision and direct that in order to ensure progressive reduction in the pendency of old cases, the disposal of officers working as Munsifs and Sub-Judges should comprise of at least 25 per cent of three year old matters in each quarter and unless 25 percent of total out turn relates to three year old matters, their out-turn will not be considered to be adequate. At the beginning of each quarter, all the Judicial officers should fix up a target for disposal of proceedings which are more than three year old and should submit the same to the District Judges who will watch and monitor the disposal of the same. The District Judges also should fix similar target for disposal of three years old matters and submit the same to the High Court at the beginning of each quarter.

I am therefore, to request that the aforesaid instructions may be brought to the notice of all the Courts subordinate to you for their information and guidance.

Yours faithfully,

A.V. RAMA RAO

REGISTRAR (ADMINISTRATION)

No.12800 (13)/Dated 05.11.1988.

From

Shri A.V. Rama Rao,
Registrar (Admn.)

To

All the District & Sessions Judges of the State.

Sub: Adjournment of Sessions Cases.

Sir,

I am directed to refer to the resolution passed in Para 5 and 7 of item No.1 of the District Judge's Conference of the year 1987 (held in January, 1988) in the matter of conducting Sessions Cases.

The Court, after careful consideration, have been pleased to concur with the decision and direct that in order to avoid unnecessary adjournments of Sessions Cases, the officers exercising sessions powers should not take leave and go on inspection work except in extraordinary circumstances like sudden illness, on a day which a Sessions case is fixed for trial.

It was further resolved that the District Judges should exercise proper vigilance and ensure that the Subordinate Officer conduct Sessions trials with due care and despatch. Effective and timely service of summons on witnesses in Sessions trial should be done by properly organizing the process serving establishment and attention of the Director of Public Prosecutions, Orissa, Bhubaneswar should be invited by the District Judges in case of non-appearance of any official witness and his appearance must be ensured on the next date fixed for hearing of the Sessions case. Accordingly as per the instructions issued by the Court under Memo No. 2452 dated 29.3.66 may be taken in suitable cases by the Court concerned against the officers and/ or authority for non-submission of services return in due time.

I am, therefore, request that the aforesaid instructions may be brought to the notice of all the courts subordinate to you for their information and guidance.

Yours faithfully,
A.V. RAMA RAO
REGISTRAR (ADMINISTRATION)

No.12933(13)/ Dated.10.11.1988

From

Shri A.V. Rama Rao,
Registrar (Administration)

To

All the District & Sessions Judges of the State.

Sub: Out burst of some crackers (bombs) in the Court Malkhana at Bhadrak.
Consequential damage of some Malkhana Properties.

Sir,

I am directed to say that recently damage has been caused to material objects kept in the Judicial Court malkhana at Bhadrak on account of accidental explosion of some live bombs stored there.

The Court, after careful consideration of the matter, have been pleased to observe that live explosives and volatile or others toxic materials should not be received in the Judicial Court Malkhana. The Investigating Agencies are being instructed separately not to send the Live explosives or such other dangerous materials to the Judicial Court Malkhana hereafter. The Court also further observe that the Judge In charge of the Malkahana should insist upon a certificate from the persons producing properties that the seized materials delivered at the malkhana do not contain any explosive materials.

I am, therefore, to request that the above instructions may kindly be brought to the notice of the subordinate criminal courts working under you for their information and guidance.

Yours faithfully,
A.V. RAMA RAO
REGISTRAR (ADMINISTRATION)

No.15142. Dated 08.12.1988

From

Shri P.K. Panigrahi,
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Periodicity of inspection by the District and Sessions Judges and Chief Judicial Magistrates.

Sir,

I am directed to invite reference to the resolution vide paragraphs 12 and 13 under Item 1 of proceedings of the District Judges' Conference of 1987 and to say that while concurring with the said resolution the Court are pleased to direct that in order to ensure that adequate attention is paid to the expeditious disposal of year old cases by the Judicial Officers, the Chief Judicial Magistrates during their inspection of subordinate courts should examine the records of at least 50 old criminal cases on the trial file and 50 cases on the general file and that the District Judges should similarly examine a good number of year-old cases during the inspection of subordinate Courts. The Court are further pleased to observe that in order to bring about a sense of urgency in the disposal of old cases and to ensure that the work in the subordinate courts is carried on with efficiency and the despatch, the District Judges and Chief Judicial Magistrates Should adhere to the periodicity of inspection and the Chief Judicial Magistrates should devote most of their time for inspection of the Subordinate courts with the object of not only improving the standard of work and quality of judgments but also achieving substantial reduction in pendency and that there should be quarterly inspection of all the Subordinate criminal courts by the Chief Judicial Magistrates.

I am, therefore, to request that the above instructions should be strictly followed.

Yours faithfully,
P.K. PANIGRAHI
REGISTRAR (I& E)

No. 130(13)/Dated 05.01.1989

From

Shri P.K. Panigrahi
Registrar (Inspection and Enquiry)

To

The District & Sessions Judge,.....(all)

Sub: Issue of summons to the Magistrates who have recorded confessional statement of the accused u/s. 164 Cr. P.C. to give evidence.

Sir,

In inviting reference to paragraph 6 of item No. 1 of the District Judges' Conference of the year 1987, I am directed to say that the Magistrates, who have recorded the confessional statement of the accused persons u/s. 164 Cr. P.C. are often summoned by the Courts to give evidence and that frequent absence of the Magistrates from the head-quarters stations causes serious dislocation in the discharge of Judicial functions.

2. On careful consideration of the matter, the Court are pleased to observe that at the time of framing charge the Court should consider, on the basis of the materials available, whether the examination of the Magistrates in such cases is really necessary in the interest of justice and the failure to observe the instructions conveyed in Court's Letter No. s 2888 dt. 8.4.80 & 4008 dated 26.4.85 shall be seriously viewed.

Yours faithfully,
P.K. PANIGRAHI
REGISTRAR (I & E)

No. 152./ Dated 05.01.1989

From

Shri P.K. Panigrahi,
Registrar (Inspection & Enquiry),

To

All the District & Sessions Judges/
All the Chief Judicial Magistrates
of the State.

Sub: Disposal of old pending cases in the Subordinate Civil and Criminal Courts.

Sir,

I am directed to say that disposal of old pending cases in the Subordinate Civil and Criminal Courts had engaged the attention of the Court for some time past. The Court after careful consideration have been pleased to observe that the District and Sessions Judges, the Chief Judicial Magistrates and the presiding Officers of the Courts shall inspect the Subordinate Courts and/or their own courts, as the case may be, strictly according to periodicity with particular emphasis on the disposal of old pending cases and if they fail to do so, the Court will take an adverse view and in suitable cases initiate disciplinary action.

Yours faithfully,

P.K. PANIGRAHI

REGISTRAR (INSPECTION & ENQUIRY)

No. 1172/ Dated 02.02.1989

From

Shri P.K. Panigrahi,
Registrar (Inspection & Enquiry)

To

All the District and Sessions Judge of the State.

Sub Issuance of summons with Legible court seal and clearly mentioning the name and address of the issuing court.

Sir,

I am directed to say that it has been brought to the notice of the Court that some of the subordinate courts are issuing summons to witnesses without mentioning the name of the court and with illegible court seals,. Omission to mention the name of the court and affixture of illegible court seal only bear testimony to the reckless attitude on the part of the clerk entrusted with the work of compliance as also to a certain degree of complacency on the part of presiding Officer concerned.

Rule 41 of the G.R. & C.O.(Civil) Volume-I provides that every process issued by a Judicial Officer shall clearly set out the name of the issuing court, the name and power of the officers and the name of the district in such a manner that they may be easily read. Rule 32 of the G.R. & C.O. (Criminal) Volume-I provides that all summonses shall bear the seal of the Court. The Court after careful consideration have been pleased to direct that the subordinate courts should clearly mention the name and address of the issuing court at the top and Legible court seals should be affixed on the body of the summonses as provided under the rules referred to above and failure to follow the above instruction shall be seriously viewed.

I am request that the above instruction may be strictly followed by all concerned.

Yours faithfully,
P.K. PANIGRAHI
REGISTRAR(INSPECTION & ENQUIRY)

No.3133(13) 30.03.1989

From

Shri P.K. Panigrahi,
Registrar (Inspection & Enquiry)

To

All the District and Sessions Judges of the State.

Sub: Securing the attendance of the accused persons consequent upon taking cognizance on the basis of Police report.

Sir,

I am directed to invite reference to Court's Circular Letter No. 5750 dated 19.5.84 and Rule 72-A at page 20 of the G.R. & C.O. (Criminal) Vol-I which enjoin that whenever an accused is released on bail he need not ordinarily be required to appear before the Court until the charge sheet is filed and process is issued by the Court and that the Magistrate, while releasing the accused on bail, should require execution of a bond with or without surety, as the case may be, binding the accused not only to appear as and when required before him, but also to appear when called upon in the Court of Session.

The Court, after careful consideration, are pleased to direct that process to the accused and notices to the surety should be issued simultaneously in all cases where appearance of the accused is considered necessary after cognizance is taken on the basis of police report.

I am, therefore, to request that the aforesaid instruction may be brought to the notice of all the Subordinate Judicial Magistrates for their information and guidance.

Yours faithfully,

P.K. PANIGRAHI

REGISTRAR (INSPECTION & ENQUIRY)

No. 5992(13) / Dated 03.07.1989

From

Shri P.K. Tripathy, M.A., LLB.,
Registrar (Inspection and Enquiry).

To

All the District and Sessions Judges of the State.

Sub: Maintenance of Register of Defect Reports received from the District Record Room.

Sir,

I am directed to refer to item No.10 of the proceedings of the District Judges' Conference held on 29th and 30th January, 1988 and to say that the proposal for prescribing a Register of Defect Reports received from the District Record Room was accepted in the Conference. All the District Judges were consulted in the matter of prescribing such a Register in the Subordinate Civil and Criminal courts.

The Court after careful consideration have been pleased to concur with the said decision and observe that in order to rectify the defects pointed out by the District Record Room, a Register of Defect Reports Received from the District Record Room as per the enclosed proforma be maintained in the Subordinate Civil and Criminal courts in manuscript form.

I am, accordingly to request that the above instructions of the Court may be strictly followed.

Yours faithfully,

P.K. TRIPATHY

REGISTRAR (INSPECTION AND ENQUIRY)

PROFORMA

Register of Defect Reports Received from the District Record Room.

S.I No.	Date of receipt of Defect Report from Record room	No. and year of suit or case with date of disposal	Nature of defect pointed out	No. and Date of requisition sent for record.	Date of receipt of Record from Record Room.	Date of removal of defects and signature of the clerk concerned in token of doing so.	Signature of the Sheristadar in token of checking about actual removal of defects.	Letter No. and date of return of Defect Report along with the case record to the Record Room after removal of defects.	Remarks.	
1	2	3	4	5	6	7	8	9	10	11

No.6124 (26)/ Dated 11.07.1989

From

Shri A.C. Mohanty,
Special Officer (Administration)

To

The District and Sessions Judge,.....(All).
The Chief Judicial Magistrate,.....(All)

Sub: Holding of Test Identification parades by the Magistrates.

Sir,

I am directed to say that of late it has come to the notice of the Court that prompt action is not being taken by the Magistrates on the requests made by the Investigating Officers for holding Test Identification parades.

The Court direct that such requests made by the Investigating Agency for holding Test Identification parades should ordinarily be acceded to by the Magistrates without loss of time and that the time spent on holding test Identification parades shall be reckoned as half a day's work in assessing the out-turn of Judicial Magistrates.

I am, therefore, to request that the above instructions may kindly be brought to the notice of all Judicial Magistrates and Special Judicial Magistrates working under your control for their information and strict observance in future.

Yours faithfully,
A.C. MOHANTY,
SPECIAL OFFICER (ADMINISTRATION)

No. 6962 (13)/Dated 07.08.1989

From

Shri P.K. Panigrahi,
Registrar (Administration)

To

The District and Sessions Judge,.....(all)

Sub: Adjournment of Sessions Cases (Item No.1 of the Proceeding of the District Judges Conference, 1988.

Sir,

In inviting reference to the resolution passed under Item No.1 of the proceedings of the District Judges' Conference of 1988, I am directed to say that in the Conference it was brought to the notice of the Court that inspite of the instructions conveyed in Court's Circular Letter No. 12800 dated 5.11.88 quite a few officers exercising Sessions Powers went on leave or performed routine duties in Chambers on the dates to which Sessions cases were fixed for trial, as a result of which those cases had to be adjourned and that this exceptionable practice was slowly gaining ground.

While concurring with the aforesaid resolution the Court, after careful consideration, are pleased to observe that the officers exercising Sessions powers should put a stop to this unwholesome practice which entails avoidable expenditure, harassment and embarrassment to the council and witnesses and that in case any Officer without adequate justification still indulges in such practice a serious view will be taken.

Yours faithfully,
P.K. PANIGRAHI
REGISTRAR (ADMINISTRATION)

No. 7492(13) / dated 25.08.1989

From

Shri P.K.Panigrahi,
Registrar (Administration).

To

The District and Sessions Judge,.....(all)

Sub: Desirability of submission of proceedings of monthly meeting between the
Chief Judicial Magistrates and the Superintendents of Police.

Sir,

In inviting reference to the proceedings vide Item No.24 of District Judges' Conference, 1987, I am directed to say that the Court, on careful consideration are pleased to direct that hereafter the Chief Judicial Magistrates should submit reports to the Court by 15th February through the respective District Judges indicating the number of monthly meeting held during the preceding year and/ or the reasons, if any, for not holding such regular meetings during any month, in derogation of the instructions conveyed in Court's Letter No. 3075 dated 2.5.72.(XI-1/72)

I am, therefore, to request that the above instruction should be strictly followed in future.

Yours faithfully,
P.K.PANIGRAHI
REGISTRAR (ADMINISTRATION)

No. 8788 / Dated 05.10.1989

From

Shri P.K. Panigrahi,
Registrar (Administration)

To

The District & Sessions Judges of the State.....(all).

Sub: Manner of sending Non-F.I.R. Prosecution Reports by the different
Prosecution Agencies.

Sir,

Please find enclosed a copy of the Circular dated 8.8.1989 issued by the I.G. of Police, C.I.D. (Crime) Orissa, Cuttack instructing all the Superintendents of Police to see that hence- forth the Prosecution Reports are submitted to the Court along with a forwarding Letter as per the format suggested by the Director of Public Prosecution, Orissa, Bhubaneswar. The above instruction conforms to the resolution adopted under item No. 1 (Pendency) of the proceedings of the District Judges Conference, 1988 with which the Court had concurred.

This may kindly be brought to the notice of all the Magistrates working in your Judgeship for their information and future guidance.

Yours faithfully,

P.K. PANIGRAHI

REGISTRAR (ADMINISTRATION)

ORISSA POLICE

C.I.D. CRIME BRANCH: CUTTACK.

No. PS-77/89/2136/PS

Dated 8.8.89

To

All the District S.S.P. Orissa
Including S.P. Bhubaneswar, Rourkela/
Berhampur/ Cuttack Sadar/ RLYs., Cuttack/
Rourkela.

Sub:- Despatch of Non-F.I.R. P.Rs to different courts- procedure regarding.

We receive complaints regarding non-acceptance of Non-F.I.R. P. Rs by different courts. Sometimes, only a few number of such P.Rs are received and the rest returned. Such Practice, sometimes, culminates in expiry of Limitation period and subsequent submission of P.Rs at belated stage become infructuous.

To overcome such discrepancies and inconveniences, it is felt that Non-F.I.R. P.Rs should transmitted to the courts in a regular manner without any delay at any level. To streamline the work at different levels, it has been felt expedient to submit the P.Rs to the Courts through a forwarding letter. It has also been decided in the District Judges' Conference, 1988 that the Courts will received the P.Rs when they are sent with a forwarding letter. The D.P.P. Orissa has sent a model forwarding Letter to this effect. In the above circumstances, it is pertinent to obtain due acknowledgement from the Bench Clerk of the Court concerned regarding receipt of the Non-F.I.R.P.Rs. To facilitate this, the forwarding Letter should be sent to the Court in duplicate, the Original of which will be retained by the Bench Clerk along with the P.Rs and the duplicate copy obtained with due acknowledgement from him.

During annual inspection by the Inspecting Officers, the "Non-F.I.R." item may be examined by comparing the Non- FIR register with the forwarding Letter to find out the delay etc. at different level.

This may please be circulated among all the police posts in your district and this may be given effect to from 1.9.1989. Action taken may be intimated to this office, at the earliest.

A model forwarding Letter is annexed hereto which may also be circulated to all the posts for needful.

Sd/-

Inspector General of Police,
C.I.D. (Crime), Orissa, Cuttack.

ANNEXURE

FORM OF FORWARDING LETTER

From:

The Law Inspector/ Court Sub-Inspector
Place

To

The Sub-Divisional Judicial Magistrate/
The Judl.Magt. First Class, (Place _____)

Sir,

I beg to submit the following Non-F.I.R., P.Rs for necessary action.

List of cases.

Sl. No.	P.S. Non-FIR No. With date.	Name(s) of accd. Persons.	Section of Law under which prosecuted
1	2	3	4

Yours faithfully,

Sd/-

Law Inspector/Court Sub-Inspector

No.1467 / Dated 22.02.1990

From

Shri P.K. Panigrahi,
Registrar (Administration),

To

All the District & Sessions Judges of the State.

Sub: Empowering the Additional District & Sessions Judges of the outlying stations to receive and admit appeals and revisions within the local limits of their respective jurisdiction.

Sir,

I am directed to say that the question of empowering the Additional District & Additional Sessions Judges also Assistant Sessions Judges of the outlying stations to receive and admit Civil/ Criminal appeals and Criminal revisions arising within the local limits of their respective jurisdiction was under active consideration of the Court for sometime past.

2. The Court, after careful consideration, have been pleased to decide that the Additional District and Additional Sessions Judges of the outlying stations should be hereafter receive and admit criminal appeals/ revisions and Civil appeals arising within the local limits of their respective jurisdiction. The Court further decide that the Assistant Sessions Judges of the outlying stations and where there are more than one Assistant Sessions Judge at any outlying station, the Senior Assistant Sessions Judge should also receive, admit and dispose of Criminal appeals preferred against convictions on trial held by Judicial Magistrates of the Second class.

3. The Court desire that the above decision be carried into effect in the manner as indicated herein below:-

(A) Unless otherwise directed by the Court the Sessions Judges should by general order authorize the Additional District and Additional Sessions Judges and Assistant Sessions Judges of the outlying stations to receive, admit and dispose of Criminal appeals and criminal revisions, as the case may be, arising within their respective jurisdiction as per the provisions contained in Sub-section (1) & (2) of

section 381 and section 400 (read with sub-sections (3) and (5) of section 9) Cr.P.C.

(B) The Additional District Judges of the outlying stations shall receive and admit Civil Appeals preferred in their respective Courts in accordance with the provisions of sub-section (4) of section 16 read with subsection (2) of Section 5 of the Orissa Civil Courts Act, 1984. At those outlying stations where the Court of Additional District Judge has not been established, the Subordinate Judge shall continue to receive, admit and dispose of civil appeals preferred against the Judgments and orders passed by the Munsif.

(C) All such aforementioned Civil/Criminal appeals and criminal revisions as are pending on the files of the Districts & Sessions Judges (except part-heard matters) should, on application filed by a party interested, be forthwith transferred to the Courts of the Additional District and Additional Sessions Judges or, as the case may be, subordinate Judges and Assistant Sessions Judges to whose territorial jurisdiction those appeals and revisions pertain.

D. At the time of presenting the appeal or revision concerned advocate should be required to file a certificate ensuring that against the selfsame or order no appeal or revision has been preferred pending before the District and Sessions Judge.

4. I am, therefore, to request that the aforesaid instructions may be brought to the notice of the Additional District and Additional Sessions Judges and Assistant Sessions Judges working in the outlying stations of your Judgeship for their information and guidance. Difficulties encountered in carrying out the above instructions should be brought to the notice of the Court immediately along with constructive suggestions, if any, for effective implementation of the same.

5. The Court's Circular letter No. 10196-XII-9/74 dated 14th November, 1974 is hereby withdrawn.

Yours faithfully,
P.K. PANIGRAHI
REGISTRAR (ADMINISTRATION)

No. 5079(13)/ Dated 17.07.1990

From:

Shri S.K. Dhal,
Special Officer (Special Cell)

To

The District & Sessions Judge,.....(all)

Sub: Practice of handcuffing the arrested persons by Police as a matter of routine-guidelines-reg.

Sir,

I am directed to invite your attention to the judgment of the Supreme Court in Prem Shankar Shukla-Vrs.- Delhi Administration (AIR 1980-Supreme Court 1535) wherein the indiscriminate use of handcuffs by the Law enforcing agencies has not been approved by the Supreme Court. The Hon'ble Supreme Court has also laid down suitable guidelines in the matter. The directions of the Supreme Court had been circulated to all State Governments by Ministry of Home Affairs vide their letter No. VII-11017/15/88-GPA II, dated 4.10.1988 (copy enclosed) for compliance. A perusal of the judgment will show that a duty has also been cast on the judiciary as well for ensuring proper implementation of its directives.

I am, therefore, to request you kindly bring these directives of the Supreme court to the notice of all Subordinate Courts under your jurisdiction for proper compliance.

Yours faithfully,

S.K. DHAL

SPECIAL OFFICER (SPECIAL CELL)

Enclosure:-As stated above.

IMMEDIATE

No. VII-11017/15/8 GPA.II

Government of India.

Ministry of Home Affairs.

New Delhi, dated 4.10.88.

To

The Home Secretary, of All State Governments / Union Territories,
Administrations.

Sub:- Use of handcuffs-guidelines regarding.

Sir,

I am directed to say that this Ministry have Issued instructions on the use of handcuffs by police from time to time. It was stressed in this Ministry's letter No. F.2/13/57-P.IV dated 26th July, 1957 (copy enclosed) that the use of handcuffs should be restricted to cases where the prisoner was a desperate character or there were reasonable grounds to believe that he would violence or attempt to escape or where there were other similar reasons. While reiterating these instructions, it was, impressed upon the state government vide this Ministry's Letter No. 8/70/74-GPA. I dated 8th November, 1974 (copy enclosed) that there should ordinarily be no occasion to handcuff the prisoners such as satyagrahis, persons occupying good positions in public life and processionalists like journalists, jurists, doctors, writers, educationalists. The instructions were reiterated in this Ministry's D. O No. 158/38/76-GP.II dated 29.7.76 (copy enclosed).

2. Further instructions on the use of handcuffs by police were communicated to State Governments in a letter dated 22.8.1978(copy enclosed) written by the then Prime Minister to State Chief Ministers. In this letter the Prime Minister suggested that handcuffs should not be used except where there was a reasonable apprehension of violence, escape or rescue and, in no case, merely to humiliate or harass a person. Ordinarily, even such apprehensions would be justified only where

such a person is suspected of being involved in any grave non-bail able offence or has also a history of previous conviction for serious offence or is a known bad character. There should also be a clear prohibition in the rules of the use of handcuffs in respect of persons who are bed-ridden in hospital, old and infirm, women prisoners, juveniles and prisoners involved in Civil Proceedings. Persons accused of violating prohibitory orders in the context of political or other similar demonstrations should also not be subjected to handcuffs.

3. The Supreme Court of India, however in its order of writ petition CRL No. 163 of 1988 dated 4.8.1988 has directed that rules or guidelines may be issued in conformity with the judgment of that Court in a case of Prem Shankar Shukla- Vrs-Delhi Administration (SCR 855 of 1980) as regards the circumstances in which handcuffing of the accused should be resort to. While declaring Rule 26.21A and 26.22 of Chapter XXVI of the Punjab Police Manual as violative of article 14,19 and 22 of the Constitution, the Supreme Court laid down the following guidelines for handcuffing the prisoners.

i) That no prisoner shall be handcuffed or fettered routinely or merely for the convenience of the custodian or escort;

ii) That it is arbitrary and irrational to classify prisoners for purposes of handcuffs, into 'B' Class and ordinary class. No one shall be fettered in any form based on superior classes differentia as to law treats them equally;

iii) Handcuffing of prisoners should be resorted only in exceptional circumstances where there is a clear and present danger of escape or where the concerned accused is so violent that he cannot otherwise be secured. Handcuffing may be avoided by increasing the strength of the armed escort or by taking prisoners in well protected vans.

iv) It is only in exceptional circumstances where there is no other reasonable way of preventing the escape of the prisoner that recourse to handcuffing him may be taken. Even in such extreme cases where handcuffs have to be put on, escorting authority must record contemporaneously the reasons for

doing so. The belief in this behalf must be based on antecedents which must be recorded and proneness to violence must be authentic. Vague surmises or general averments that the under trial is a crook or desperado, rowdy or maniac cannot suffice, Merely because the offence is serious the inference of escape proneness or desperate character does not follow.

v) These recorded reasons must be shown to the presiding Judge and his approval should be taken. Once the Court directs that the handcuffs are not to be used, no escorting authority should over-rule this direction.

4. It is requested that the above guidelines may kindly be brought to the notice of all concerned through the Directors General of police and Inspectors General of prisons. It may kindly be ensured that the instructions are scrupulously observed.

5. A copy of the instructions issued in the matter may kindly be endorsed to this Ministry.

Yours faithfully,
SANAT KAUL

No. 5248(13)/ Dated 23.07.1990

From:

Shri S.K. Dhal,
Special officer (Special cell)

To

The District & Sessions Judge,.....(all)

Sub:- Revised produce effective from 1.8.90 regarding transmission of orders of the Supreme Court in respect of release of prisoners from Jails.

Sir,

I am directed to forward herewith a copy of the confidential D.O. No.1/89-S.C./Registrar(J) dated the 18th June, 1990 from the Registrar, Supreme court of India, New Delhi for favour of information and guidance and communication to all the Judicial Officers under your jurisdiction for their information & guidance

Yours faithfully,

S.K. DHAL

SPECIAL OFFICER (SPECIAL CELL)

Enclosure:-As stated above.

SUPREME COURT OF INDIA

NEW DELHI-110001

REGISTRAR

CONFIDENTIAL

D.O. No. 1-89-SC/Registrar (J)

Dated June 18, 1990.

Dear Shri

You may be aware that a significant number of instances have occurred during the last few years where unscrupulous persons have got convicts lodged in various jails in the countries released out right or on bail by producing fake or forged orders purporting to be from this Court before the executing court/competent authorities and obtaining consequential orders and producing them to the detaining authorities. In order to prevent such occurrences in future, we had detailed discussion with various authorities and have with the active assistance of the Ministry of Home affairs of the Government of India arrived at a fool-proof procedure to be adopted with effect from 1.8.1990 for transmission of orders of the Court in respect of; (i) staying execution of capital sentences, and ascertaining factual position regarding condemned prisoners;(ii) release of convicts; and (iii) enlargement on bail of prisoners.

2. The procedure to be adopted for transmission of such orders is as follows:-

When this Court passes any order on the three matters indicated in the previous paragraph, the said order will be conveyed through wireless network to the concerned judicial authorities or the jail concerned or to be both with copies to the authorities through whom the cause has arisen. Thereafter the formal order of the court will as usual be sent, through the normal communication channels.

3. With the introduction of the above procedure the Executing Court will act only on receipt of the wireless message conveyed through the Police Network. If any order is presented before the court without being preceded repeat preceded by

the wireless message for execution, the authority should get in touch with the Joint Registrar, Additional Registrar and obtain confirmation of the authenticity of the order before processing it further. Any change in the names of the officers to be contacted will be intimated well in advance.

4. May I, in the circumstances, request you to intimate the revised procedure indicated in paras 2 and 3 above to all the Judicial officers under your jurisdiction immediately and confirm having communicated the procedure and the officers having received the communication, to me at the earliest?

Please treat this as MOST URGENT AND acknowledge receipt.

With warm regards.

Yours sincerely,
Sd/-
(S.VARADARAJAN)

No. 5371(26)/ Dated 27.07.1990

From

Shri P.K. Panigrahi,
Registrar (Administration)

To

The District and Sessions Judge,(all)
The Chief Judicial Magistrates.....(all)

Sub: Revision of the yardstick prescribed for the cases under the Orissa Forest Act, 1972.

Sir,

In inviting reference to the resolution adopted under item 14 of the District Judges' Conference held on 2nd and 3rd February, 1990 I am directed to say that the court on careful consideration are pleased to concur with the said resolution and direct that disposal of cases falling under section 55-A of the Orissa Forest Act, 1972 shall be governed by the same yardstick as that prescribed for contested criminal case as per Court's letter No. 4551 dated 22.4.1982.

I am, therefore, to request that this may be brought to the notice of all the Judicial Officers working in the Judgeship.

Yours faithfully,
P.K. PANIGRAHI
REGISTRAR (ADMINISTRATION)

No. 6597 / Dated 10.09.1990

From

Shri P.K. Tripathy,
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Submission of advance tour program of Inspection by the Chief Judicial Magistrates.

Sir,

I am directed to invite a reference to Court's letter No. 4164 dated 1.5.85 on the subject in which instructions were issued that the Chief Judicial Magistrates should furnish advance tour program of inspections of different Criminal Courts pertaining to their district during each quarter to their District Judges and the District Judges in their turn should transmit a copy of the said tour program submitted by the Chief Judicial Magistrates to the High Court after the same is approved by them. It was further directed that the Chief Judicial Magistrates should be impressed upon not to deviate from the programs of inspection.

It has come to the notice of the Court that the periodicity of inspection is not being maintained by the Chief Judicial Magistrates. They also visit the same station more than once in a particular quarter for the purpose of inspection of different criminal courts thereby wasting of working days for transit.

The programs of inspection by the Chief Judicial Magistrates sometimes clash with the program of the District Judges on inspection duty or on administrative work or Section Circuits. It causes inconvenience to the Chief Judicial Magistrates in finding out accommodation in Inspection Bungalow. Consequently, the program of inspection is cancelled and the periodicity of inspection is not maintained.

The Court have been pleased to observe that the District judges should henceforth forward the tour program of the Chief Judicial Magistrates to the Court in the enclosed proforma after closely scrutinising the same in the light of the above instruction.

Yours faithfully,
P.K. TRIPATHY
REGISTRAR (I & E)

Proforma for quarterly inspection by the Chief Judicial Magistrates.

Names & numbers of the Magisterial Courts functioning in the Judgeship.	Date of last Inspection.	Proposed inspection date during the quarters under reference.	Reasons for not holding inspection of the Magisterial courts during the quarter under reference.	Remarks.
1	2	3	4	5
C.J.M				

Certified that the Chief Judicial Magistrate has drawn the advance inspection program for the quarters after consulting me and I approve the inspection (Tour) program.

I further certified that the reasons furnished for non-inspection of the Courts-----by the Chief Judicial Magistrate is satisfactory/ unsatisfactory for the following reasons.

District & Sessions Judge.

No. 6670 / Dated 11.09.1990

From

Shri P.K. Tripathy,
Registrar (Inspection&Enquiry)

To

All the District & Sessions judges of the State.

Sub:- Review of progress achieved in the disposal of cases involving U.T.Ps.
(Item No. 2 of the Proceedings of the Dist. Judges' Conference, 1989)

Sir,

I am directed to invite a reference to Item No.2 of the proceedings of the District Judges' Conference, 1989 held on 2nd and 3rd February, 1990 on the above subject and to say that on a review of the statements showing disposal of cases involving U.T.Ps, it was brought to the notice of the Court that despite Court's circular letter No. 9402 Dt. 24.10.73, No. 8490 Dt. 24.8.84, No. 10859 Dt. 7.11.85 and No. 10121 Dt. 18.9.86 emphasizing expeditious disposal of such cases quite a few were still there on the trial files of certain Magistrates in which the U.T.Ps. were languishing in jail custody for a period exceeding the maximum period of sentence provided under the statute and the concerned Sessions Judges had failed to report to the court as to why those cases could not be concluded even after lapse of one year from the dates of institution.

It was resolved that every judicial Magistrate ought to realize that in view of the judicial pronouncement in A.I.R., 1979 S.C. 1369, he shall be squarely answerable for the undue detention of each and every UTPs. The magistrates should hereafter note down in red ink the date detention of the U.T.Ps. along with the maximum punishment provided for the offence with which he is charged on the cover page of the connected case record, in order that they shall be constantly

reminded of the risk of detaining the .U.T.Ps. beyond the permissible period of detention.

The Chief Judicial Magistrates should ensure that the above instruction is scrupulously followed by the Magistrates and instances of deviation, if any, are immediately brought to the notice of the Court. The District Judges and Chief Judicial Magistrates should ensure accuracy and punctual submission of periodical statements.

The Court after careful consideration of the matter have been pleased to concur with the aforesaid decisions and direct that the above instructions should be strictly followed by the criminal courts henceforth.

I am therefore, to request that the above instructions may be brought to the notice of all the Subordinate courts working under you for their information and guidance.

Yours faithfully,
P.K. TRIPATHY
REGISTRAR (I & E)

No. 8659(13)/ Dated 14.11.1990

From

Shri D.M. Patnaik,
Registrar (Judicial)

To

The District & Sessions Judge.....(all)

Sub:- Withdrawal of Court's letter No. 8551 dated 30.11.76 regarding recording of evidence of witnesses U/S 229 Cr.P.C. by the Court of Session.

Item No. 21 of the Proceedings of the District Judges' Conference, 1989.

Sir,

I am directed to invite reference to Court's Circular letter No. 8551 dated 30th November, 1976 and to say that the Court after careful consideration have been pleased to approve the resolution and direct that in view of the amendment of Section 299 of the Code of Criminal Procedure by amended Act 45 of 1978, instructions issued in the aforesaid circular letter in the matter of recording of evidence of witnesses by the Court of session u/s 299 Cr.P.C. is no longer necessary. They accordingly direct that the instructions issued therein may be treated as withdrawn.

This may be brought to the notice of all the Subordinate Criminal Courts working under you.

Yours faithfully,
D.M. PATNAIK
REGISTRAR (JUDICIAL)

NO. 8661/ Dated 14.11.1990

From

Shri D.M. Patnaik,
Registrar (Judicial)

To

All the District & Sessions Judges of the State.

Sub:- Noting the date of vacation of stay in the remarks column of the Register of cases in which proceeding have been stayed (R) 41 (Civil) and (R) 41 (Criminal).

(Item No.18 of the proceedings of the District Judges' Conference, 1989.)

Sir,

I am directed to say that the proposal of inserting more column in (R) 41 (Criminal) and (R)41(Civil) (Register Proceeding stayed) came for discussion in the District Judges' Conference, 1989 under Item No. 18 and it has been resolved that the date of vacation of stay be noted in the remarks column of (R) 41 (Criminal) and (R)41 (Civil).

The Court after careful consideration have been proposed to concur with the resolution.

I am therefore to request that the above instruction may be brought to the notice of the Civil and Criminal courts working under you for further information and guidance.

Yours faithfully,
D.M. PATNAIK
REGISTRAR(JUDICIAL)

No. 8879/Dated 21.11.1990

From

Shri D.M. Patnaik,
Registrar (Judicial)

To

All the District & Sessions Judges of the State.

Sub: Furnishing security bonds by the staff of civil and criminal courts- Item No. 33 of the proceedings of Districts Judges' Conference, 1989.

Sir,

I am directed to refer to paragraph 1 of the circular Letter No. 10085(13) dated 22.8.88 and to say that the proposal for furnishing security by means of fidelity Insurance Bonds by the staff of Civil and Criminal courts handling records was the subject matter of discussion in the District Judges' Conference, 1989.

The court, after careful consideration have been pleased to accept the said proposal and direct that the said paragraph be modified as follows:-

"1) The clerks handling records in the Civil and Criminal Courts should furnish security by means of fidelity Insurance Bonds and the same be made effective Prospectively."

The aforesaid revised instructions may be brought to the notice of all Subordinate courts working under you for their information and guidance.

Yours faithfully,
D.M. PATNAIK
REGISTRAR (JUDICIAL)

No. 8963 / Dated 22.11.1990

From

Shri D.M. Patnaik
Registrar (Judicial)

To

All the District & Sessions Judges of the State.

Sub: Authorizing the Director of Public Prosecution to peruse the Register of Under Trial Prisoners maintained by the Criminal Courts.

Item No. 42 of the proceedings of the District Judges Conference, 1989.

Sir,

I am directed to invite reference to Item No. 42 of the proceedings of the District Judges Conference, 1989 and to say that the proposal of the Director of Public Prosecution to peruse the under Trial Prisoner's Register come for discussion and it was accepted.

The Court after careful consideration of the matter have been pleased to concur with the aforesaid decision taken in the conference and direct that the Director of Public Prosecution be allowed to peruse the Under Trial Prisoner's register as also other connected registers, if necessary maintained in the subordinate criminal Courts with the permission of the court concerned.

I am therefore, to request that the above instructions may be brought to the notice of all the Subordinate Criminals courts working under you for their information and guidance.

Yours faithfully,
D.M. PATNAIK
REGISTRAR (JUDICIAL)

No.51/ Dated 03.01.1991

From

Shri D.M.Patnaik,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: -Return of the Warrant for release of the prisoner on bail to the Court of Appeal or Revision on the inability of the Prisoner to furnish the bail.

Sir,

I am directed to refer Rule 121 of G.R. & C.O.(Criminal) Vol.I according to which when an Appellate Court or a Court of Revision directs the release of a Prisoner on bail pending the hearing of an appeal or an application for revision, such Court shall send the warrant for his release on bail to the Chief Judicial Magistrate or if the order under appeal or revision was passed by a Court in an outlying subdivision, in the alternative to the Sub-divisional Judicial Magistrate of such Sub-division or, if the said order was passed by a Court not at the Sub-divisional headquarters, to the Judicial Magistrate concerned and send a copy of the order to the Trial Court. The Magistrate concerned shall comply with the bail orders on the very day of its receipt and in case of noncompliance on that day shall note the reasons for the same in the order sheet. If such person is unable to furnish the bail required on him, the Court receiving the warrant for the release of the prisoner on bail shall forthwith return the same to the Appellate Court or to the Court of revision which issued it, with an endorsement thereon to the effect that the prisoner is unable to furnish the bail.

2. In Court's letter No.2406-XLVIB-6/74 dated 12.3.75 instructions were issued for observance of rule scrupulously.

3. It has come to the notice of the Court that no time limit has been fixed by any of these provisions. In many cases, sometime may elapse even in

communicating the order to the convict and he may need some time to arrange for surety.

4. After careful consideration of the matter, the Court have been pleased to direct that a time limit of 15 days should be fixed for return of release order by the lower Court to the Appellate Court or Revisional Court and the said period of 15 days may be counted from the date of receipt of the order by the Court concerned.

5. I am accordingly, request that the modified instruction as mentioned above may be brought to the notice of all subordinate Criminal Courts working under you for their information and guidance.

Yours faithfully
D.M.PATNAIK
REGISTRAR (JUDICIAL)

No. 1193(13) / Dated-13.2.1991

From

Shri B.N.Patnaik,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: -Obtaining the signature of the trial Magistrate in Column-11 (now renumbered as Column-12) of the Register of property (R) 27 (Cr.)

Sir,

I am directed to invite a reference to the Court's letter no.10364 dated 16.9.87 in which instructions was issued that the Trial Magistrate should verify the entries made in column 11 of the property Register (R)27 and put his signature against the same in order to guard against omission and ensure the correctness of the entry relating to the order of disposal of property.

Clarification was sought for as to whether the trying Sessions Judge shall be under obligation to put his signature in the appropriate column of the property register maintained for the Sessions Cases.

The Court, after careful consideration of the matter are pleased to direct that the Officer- in -charge of Malkhana should maintain the register and make entries as per the orders in the Judicial records in Column-12(previously numbered as Column-11) of the property Register (R) 27 and put his signature against the same.

This supersedes the instruction issued in Court's letter no.10364 dated 16.9.87.

I am to request that the above instructions may be strictly followed by all concerned.

Yours faithfully
B.N.PATNAIK
REGISTRAR (JUDICIAL)

No.2698(13)/ Dated 16.03.1991

From

Shri B.N.Patnaik,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub:- Noting the fact of recall of warrant of arrest in the remarks column(R) 10
(Register of processes issued to the Police Station).

Sir,

I am directed to refer to the Item No.16 of the Proceedings of the District Judges' Conference, 1989.It has been resolved that the fact of issue of recall of warrant of arrest may be noted in the remarks column of (R) 10 (Register of processes issued to the Police Station) without adding a new column in the register. The Court have been pleased to accept the resolution.

I am directed to request that this fact may be brought to the notice of the subordinate Courts working under you for their information and guidance.

Yours faithfully
B.N.PATNAIK
REGISTRAR (JUDICIAL)

No.2798 / Dated 18.03.1991

From

Shri B.N.Patnaik,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: Propriety of putting hand-cuffs to the under trial prisoners after judgment of acquittal is pronounced.

Sir,

I am directed to say that it has come to the notice of the Court that even after acquittal of under trial prisoners in courts they are hand-cuffed and taken back to jails from where they are freed. The propriety of putting hand-cuffs to the under trial prisoners even after judgment of acquittal was under consideration of the Court.

The Court after careful consideration of the matter have been pleased to observe that no under trial prisoner should be hand-cuffed while taking him from Court to the jail after the pronouncement of judgment of acquittal in his favour unless the concerned Public Prosecutor intimates that the U.T.P.is required to be detained in any other case.

I am, accordingly, to request that the above instruction may be brought to the notice of all the criminal courts functioning under you for their information and guidance.

Yours faithfully
B.N.PATNAIK
REGISTRAR (JUDICIAL)

No.2896 / Dated 21.03.1991

From

Shri B.N.Patnaik,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: -Noting the particulars of the witnesses examined in cases under the House Rent Control Act in the Register of Attendance of witnesses (R) 8 and Criminal Diary (R) 6.

Sir,

I am directed to say that the Court after careful consideration of the matter are pleased to concur with the resolution adopted under item No.24 of the proceedings of the District Judges' Conference held on 2nd and 3rd February, 1990 and direct that the particulars of witnesses examined in House Rent Control Cases be mentioned in the Diary (Criminal) and also in the remarks column of the Register of attendance of witnesses (R) 8.

I am therefore, to request that the above instructions may be brought to the notice of the Subordinate Criminal Courts under your control for information and guidance.

Yours faithfully
B.N.PATNAIK
REGISTRAR (JUDICIAL)

No.3141/ Dated 28.03.1991

From

Shri B.N.Patnaik,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub:- Deputation of a Senior Clerk with Chief Judicial Magistrate for preparing draft inspection notes.

Sir,

I am directed to invite a reference to paragraph V of Items No.1 and 2 of the proceedings of the District Judges' Conference,1989 on the above subject and to say that the Court after careful consideration of the matter have been pleased to direct that the Chief Judicial Magistrates be allowed to take a Senior Clerk while going on inspections and if necessary the Clerk may be deputed two or three days in advance for preparing preliminary notes of inspection.

Yours faithfully
B.N.PATNAIK
REGISTRAR (JUDICIAL)

No.,3318/Dated 04.04.1991

From

Shri B.N.Patnaik,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub:- Supply of free copies of acquittal judgments to the public prosecutor of Railway Department in respect of cases instituted under Railway Properties (Unlawful Possession) Act,1966.

Sir,

I am directed to say that the question of supply of free copies of acquittal judgment in respect of cases instituted under Railway Properties(Unlawful possession) Act,1966 to the public Prosecutor of Railway was under consideration of the Court for some time past.

The Court, after careful consideration, have been pleased to direct that free copies of acquittal judgments in respect of cases instituted under Railway Properties (Unlawful possession) Act should be supplied to the concerned Public Prosecutor of the Railway Department.

I am therefore, to request that the above instruction may be brought to the notice of the Subordinate Courts for their information and guidance.

Yours faithfully
B.N.PATNAIK
REGISTRAR (JUDICIAL)

No.3366 / Dated 06.04.1991

From

Shri B.N.Patnaik,
Registrar (Judicial)

To

All the District & Sessions Judges of the State.

Sub: -Utilisation of the services of Stenographers and Typist who do not have sufficient work during office hours for preparation of police papers.

Sir,

I am directed to say that the question of utilizing the services of the Stenographers and Typists, who do not have sufficient engagement during office hours, for preparation of copies of police papers was discussed in the District Judges' Conference, 1990 under item No.3 of the agenda for discussion.

The Court after careful consideration have been pleased to direct that the services of Stenographers and Typist who go without sufficient work during office hours should be utilized for preparation of copies of police papers in the interest of administration.

I am therefore, to request that the aforesaid instruction may be brought to the notice of all Subordinate Civil and Criminal Courts for their information and strict compliance.

Yours faithfully
B.N.PATNAIK
REGISTRAR (JUDICIAL)

No.3832 /Dated 18.04.1991

From

Shri B.N.Patnaik
Registrar (Judicial)

To

All the District & Sessions Judges of the State.

Sub:- Consideration of statistics regarding disposal of cases.

Sir,

I am directed to invite a reference to Item No.1 of the proceedings of the District Judges' Conference held on 2nd and 3rd February,1990 on the above subject and to say that the Court after careful consideration of the matter have pleased to decide that in order to help ease the congestion of cases in many subordinate Courts especially on the civil side, the District Judges should make timely review of the pendency of cases and properly redistribute them among the courts of competent jurisdiction.

The Court further decides that the Miscellaneous cases of simple nature should be disposed at the first hearing as far as practicable.

I am, therefore, to request that the above decision of the Court may be brought to the notice of all the subordinate courts of your Judgeship for their information and guidance.

Yours faithfully
B.N.PATNAIK
REGISTRAR (JUDICIAL)

No.3834 / Dated.18.4.1991

From

Shri B.N.Patnaik
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub:- Non-acceptance of charge sheets or prosecution reports in the absence of particulars of age of the accused persons and full name and correct addresses of the witnesses.

Sir,

In inviting a reference to the resolution passed under item No.1 of the District Judge's conference, 1989, held on 2nd and 3rd, February, 1990 on the above subject, I am directed to say that the Court, on careful consideration are pleased to direct that if the charge sheet or prosecution report as the case may be, does not contain the particulars of the age of the offender/ accused and the full name and correct address of any of the witnesses, the same should be returned to the concerned prosecuting agency with a direction to resubmit the same by rectifying the aforesaid defects.

I am, therefore, request that the aforesaid instructions may be brought to the notice of all the criminal courts in your judgeship for their information and guidance.

Yours faithfully
B.N.PATNAIK
REGISTRAR (JUDICIAL)

No.4213/ Dated 01.05.1991

From

Shri B.N.Patnaik
Registrar (Judicial)

To

All the District and Sessions Judges of the State

Sub: -Entry of the particulars regarding release of the convict under Sections 3 or 4 of the Probation of Offenders Act passed by the Appellate/Revisional Court in the Register of Probation of Offenders Act (R) 40 maintained by the Trial Court.

Sir,

I am directed to say that it has been brought to the notice of the Court that no entry is made regarding release of the convict under Sections 3 or 4 of the Probation of Offenders Act when such order is passed by the Appellate Court while hearing Criminal Appeal or Revision.

On careful consideration of the matter, the Court have been pleased to direct that the order of release of the convict either under Section 3 or under Section 4 of the Probation of Offenders Act passed by a superior court in Criminal Appeal or Revision should be entered in the Register of cases dealt with under the Probation of Offenders Act, (R) 40 maintained by the Trial Courts in red ink hereafter.

I am, therefore, to request that the above instruction may be brought to the notice of all the Criminal Courts for their information and guidance.

Yours Faithfully
B.N.PATNAIK
REGISTRAR (JUDICIAL)

No.7513/ Dated 01.08.1991

From

Shri B.N.Patnaik
Registrar (Administration)

To

All the District & Sessions Judges of the State.

Sub: No Judicial Officers shall receive or see off or call upon the Hon'ble Chief Justice or any other Hon'ble Judge of High Court during their visit except in official attire.

Sir,

It has come to the notice of the Court that some of the District Judges and judicial Officers receive or see off or call upon the Honb'le the Chief Justice and the Honb'le judges of the Court at the time of their visit to various places without wearing the official attire.

The Court on careful consideration are pleased to direct that no Judicial Officer shall receive or see off or call upon the Hon'ble the Chief Justice or any of the Hon'ble judges of the Court during their visit except in official attire.

This instruction is issued in addition to that of Court's Letter No. 9692 dated 7th /8th November, 1989.

"Official attire" shall mean either a close collar coat or open collar coat with a neck tie.

I am accordingly, to request that the above instruction may be brought to the notice of all the Judicial Officers working in your judgeship.

Yours faithfully

B.N.PATNAIK

REGISTRAR (ADMINISTRATION)

No. 7515 / Dated 01.08.1991

From

Shri B.N.Patanaik
Registrar (Judicial),

To

All the District & Sessions Judge of the State.

Sub:- Mode of calculation of the term of probation in cases when an offender is enlarged on probation in more than one case.

Sir,

I am directed to say that the question as to whether the period of probation in two cases should run concurrently or consecutively, when the offender is enlarged on probation in more than one case, was under consideration by the Court for some time past.

The Court, after careful consideration, have been pleased to observe that it is not necessary that the period of probation are to run concurrently or consecutively. In each case the convict has to maintain good conduct during the period of probation as directed by the Court.

I am, therefore to request that aforesaid instructions of the Court be brought to the notice of the Subordinate Courts for their information and guidance.

Yours faithfully
B.N.PATANAİK
REGISTRAR (JUDICIAL)

No.8053(13)/ Dated 16.08.1991

From

Shri P.C.Patro.
Registrar (Judicial)

To

The District & Sessions Judge.....(all)

Sub:- Procedure to be followed regarding issuance of notice to the parties for hearing of Claim cases at Circuit Court by IInd M.A.C.T.

Sir,

I am directed to say that the desirability of prescribing a uniform procedure in Claim cases regarding intimating the date of hearing of such cases to the parties was under consideration since past.

On careful consideration of the matter, the Court have been pleased to direct that the following procedures be followed hereinafter.

- I. Once a case gets ready for hearing in the Circuit Court of the IInd M.A.C.T., notice of hearing of the case in the Circuit Court shall be issued to the advocate appearing for parties by Ist M.A.C.T.
- II. Notice shall also be published in the Notice Board of the Court at District Headquarters or the place where the Circuit Court is to be held.
- III. In cases where the parties are not represented by Advocates, notice shall be issued to them fixing the date of hearing after the date and place of Circuit Court is fixed by the IInd M.A.C.T.

I am, therefore, to request that the aforesaid instructions may be strictly followed by all M.A.C.Ts.

Yours faithfully
P.C.PATRO
REGISTRAR (JUDICIAL)

No 8443(13)/Dated 13.09.1991

From

Shri B.N.Patnaik
Registrar (Administration)

To

The District & Sessions Judge.....(all)

Sub:- Application for bail by the accused u/s.437(1), Criminal Procedure Code.

Sir,

It has come to the notice of the court that some of the Magistrates in the States are exceeding the jurisdiction vested in them under Section 437(1) of the Code of Criminal Procedure 1973 by granting bail to persons accused of offences punishable with death or imprisonment for life, not coming under the purview of the proviso thereto.

The Court, while disapproving of such practice, have been pleased to direct that the principles decided in the case of Gurucharan Singh & others Vrs. State(Delhi Administration) (A.I.R.1978 S.C.179) in the matter of granting bail u/s. 437 of the Code of Criminal Procedure 1973 should be borne in mind and strictly followed. Relevant extract of the decision is enclosed.

I am, therefore, to request that the above directions of the Court may be brought to the notice of the subordinate courts under you for their information and guidance.

Yours faithfully

B.N.PATNAIK

REGISTRAR (ADMINISTRATION)

A.I.R.1978 SUPREME COURT 179

“If a police officer arrests a person on a reasonable suspicion of commission of an offence punishable with death or imprisonment for life and forwards him to a Magistrate, the Magistrate at that stage will have no reasons to hold that there are no reasonable grounds for believing that he has not been guilty of such an offence. At that stage, unless the Magistrate is able to act under the proviso to S.437 (1), bail appears to be out of the question. The only limited inquiry may then relate to the materials for the suspicion. The position will naturally change as investigation progresses & more facts & circumstances come to light. Sec.439 (1), on the other hand, confers special powers on the High Court or the Court of Session in respect of bail. Unlike under S.437 (1) there is no ban imposed under S. 439(1), against granting of bail by the High Court or the Court of Session to persons accused of an offence punishable with death or imprisonment for life. It is however, legitimate to suppose that the High Court or the Court of sessions will be approached by an accused only after he has failed before the Magistrate and after the investigation has progressed throwing light on the evidence and circumstances implicating the accused.”

No.10593/ Dated 03.12.1991

From

Shri P.C. Patro
Registrar (Judicial),

To

All the District & Sessions Judges of the State .

Sub: Question of prescribing the period of preservation of records placed in the dormant file.

Sir,

I am directed to say that the question of prescribing the period of preservation of the records placed in the dormant file was under consideration for some time past.

After careful consideration, the Court have been pleased to observe that the records of the dormant cases need not be destroyed. But necessary steps should be taken to withdraw those cases which have become three years old and in which the offence is punishable only with fine upto Rs.1,000/-.

I am, therefore, to request that the aforesaid instruction of the Court may kindly be strictly followed.

Yours faithfully
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 30/ Dated 03.01.1992

From

Shri P.C. Patro,
Registrar (Judicial)

To

All the District & Sessions Judges of the State.

Sub: Fixing a date line for submission of monthly statement by the District Judges to the High Court.

Sir,

I am directed to say that the question of fixing a date line for submission of monthly statements relating to grant of anticipatory bail under Section 438 Cr .p.c. and for the Juvenile Courts was under consideration of the Court as no date Line has been fixed for submission of such statements.

The Court after careful consideration have been pleased to direct that monthly returns i.e. statement relating to grant of anticipatory bail and for the Juvenile Courts should be submitted by the District and Sessions Judges by the 15th of the succeeding month.

I am to request that the above instruction may be brought to the notice of all Courts subordinate to you for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 213 Dated 10.01.1992

From

Shri P.C. Patro,
Registrar (Judicial)

To

All the District & Sessions Judges of the State.

Sub: Hearing the Convict on the question of sentence in Criminal Trials.

Sir,

I am directed to invite your attention to the decision of the Supreme Court, reported in A.I.R. 1989 at page 1456 in the case of Alludin Mian and others, Sharif Mian and another Vs. State of Bihar, on the above subject and to say that the said decision may be read along with the provisions contained in rule 105 (a) at page 26 of the G.R. & C.O. (Criminal) Volume-I and may be brought to the notice of all Magistrates for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No.487 / Dated 25.01.1992

From

Shri P.K.Patra
The Registrar (Inspection and Enquiry)

To

The District and Sessions Judge, Mayurbhanj, Baripada.

Sub: Noting the date of disposal in Column-8 of (R) 40, Register of cases dealt with under the Probation of Offenders Act, 1958.

Sir,

With reference to your letter No. 5717 dated 22.11.91 on the above subject, I am directed to say that the Court after careful consideration have been pleased to direct that final result and the nature of order passed with date be noted in Column-8 of Register (R)-40

I am to request that the aforesaid instructions may be strictly followed by all the Criminal Courts in future.

Yours faithfully,
P.K.PATRA
REGISTRAR (I & E)

No. 1361 (13)/ Dated 21.02.1992

From

Shri P.C.Patro,
Registrar (Judicial)

To

The District and Sessions Judge(all)

Sub: Appointment of Commissioner of Oath under Section 297 of the Code of Criminal Procedure.

Sir,

I am directed to say that the question of appointment of Commissioner of Oath under Section 297 of the Code of Criminal Procedure, 1973 was under consideration of the Court for some time past.

The Court after careful consideration of the matter have been pleased to direct that Sessions Judges should appoint Commissioner of Oath under Section 297 of the Code of Criminal Procedure for different stations according to the need of those stations.

I am, therefore, to request that the aforesaid instructions of the Court may be strictly followed in future.

Yours faithfully,
P.C.PATRO
REGISTRAR (JUDICIAL)

No.3243/ Dated 23.04.1992

From

Shri P.C. PATRO
Registrar (Judicial)

To

The Secretary to Government of Orissa,
Home Department, Bhubaneswar.

Sub: Submission of monthly report of work done by the Director of Public Prosecution to the High Court.

Sir,

With reference to Government (Home Department) Letter No. 56971(PIC/1-154/91) dated 16.8.91 on the above subject, I am directed to say that the Court, after careful consideration have been pleased to observe that the Director, Public Prosecutions may be advised to look into the following matters during his tour to Magisterial Courts and to submit his tour report in the first week of the succeeding month in which he has under taken for perusal of the Court.

(1) Review of pendency of cases of Under Trial Prisoners with reference to Under Trial Prisoner register.

(2) To report the total number of Under Trials Prisoners kept in jail for more than six months, reasons for delay in disposal of those cases, whether due to non-appearance of the witnesses or slackness of the Court.

(3) Whether the State Defence Counsel is appointed when the Under Trial prisoners have got no means to engage an Advocate.

(4) Whether the provisions of Probation of Offenders Act is being followed in suitable cases.

(5) Whether the bail applications filed on behalf of Under Trial Prisoners are disposed of as soon as possible.

Yours faithfully,

P.C. PATRO
REGISTRAR (JUDICIAL)

No. 3235(15)/ Dated 23.04 1992.

From,

Shri B.N. Patnaik, LL.M.,
Registrar (Administration),

Dear Shri

I am directed to invite your attention to the decision of the Supreme Court in Narcotic Drugs Bureau Vs. Kishan Lal and others (AIR 1991, SC, 558), wherein the scope and applicability of Section 37 of the Narcotic Drugs and psychotropic Substances Act, 1985, have been laid down. An extract of the observation of the Supreme Court is enclosed herewith for your information.

I am, therefore, to request that the principle laid down by the Supreme Court in aforesaid decision should be strictly followed and bring the same to the notice of all the Addl. Sessions Judges and Asst. Sessions Judges of your Sessions division for their information.

Yours sincerely

(B.N. PATNAIK)

REGISTRAR (ADMINISTRATION)

Shri

District & Sessions Judge,

A.I.R.1991. S.C.558

Narcotics Control Bureau

Vs.

Kishan Lal & others

Para-6

Section 37 as amended starts with a non obstante clause stating that notwithstanding anything contained in the code of Criminal procedure, 1973 no person accused of an offence prescribed therein shall be released on bail unless the conditions contained therein were satisfied. The NDPS Act is special enactment and as already noted it was enacted with a view to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances. That being the underlying object and particularly when the provisions of Section 37 of NDPS Act are in negative terms limiting the scope of the applicability of the provisions of Cr.P.C. regarding bail, in our view, it cannot be held that the High Court's powers to grant bail under Sec.439, Cr.P.C. are not subject to the limitation mentioned under Section 37 of NDPS Act. The non obstante clause with which the Section starts should be given, its due meaning and clearly it is intended to restrict the powers to grant bail . In case of inconsistency between Sec.439, Cr.P.C and Sec.37 of the NDPS Act, Section 37 prevails;

No. 3880 / Dated.14.05.1992

From

Shri P.C. Patro
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: Summons to Handwriting Experts and Other Experts for their evidence.

Sir,

I am directed to say that it has been brought to the notice of the Court that the finger print experts are being summoned through wireless message to attend the Court to give evidence on short notice. Moreover in the absence of the name of Police Station and its number out of which the Police case arises, difficulties are faced for the expert to trace out the copy of the opinion report for reference.

The question of issuing summons to experts for their evidence with sufficient time was under consideration of the Court. On careful consideration of the matter, the Court are pleased to direct that the following instructions be followed while issuing summons to handwriting experts and other experts, in Criminal cases.

(i) Summons to all experts be issued sufficiently ahead (at least 15 days prior to the date fixed) for the appearance of the Experts in Courts to depose.

(ii) Those summons be sent to the head of the office in which the expert is employed as per Rule 35 of the General Rules and Circular Orders (Criminal), Volume-I.

(iii) That the Police Station Case number and the name of the Police Station be reflected in the body of the summons with the G.R. Case number.

I am, accordingly to request that the aforesaid instructions may be brought to the notice of all Criminal Courts subordinate to you for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No.4426/Dated 18.06.1992

From

Shri S.K.Patnaik, M.A., LL.B.,
Assistant Registrar (Administration)

To,

The District Judge, Ganjam- Berhampur.

Sub Observation made on the monthly statement relating to the applications for grant of Anticipatory Bail for the month of February and March, 1992.

Sir,

I am directed to say that while scrutinising the above stated monthly statements, forwarded under your Letter No. 3462 dated 10.3.92 and 4469 dated 8.4.92, the Court are pleased to observe that no application for anticipatory bail should remain pending for more than a week, except in the cases wherefor the disposal of petition, perusal of case diary is necessary.

Yours faithfully,

S.K.PATNAIK

ASSISTANT REGISTRAR (ADMINISTRATION)

No. 4806(13) /Dated 29.06.1992

From

Shri P.C. Patro,
Registrar (Judicial)

To

The District and Sessions Judge.....(all)

Sub: Supreme Court's Judgment Dtd.11.09.1991 in writ petition (Crl) No. 517 regarding no Judicial Officer should visit the Police station.

Sir,

I am directed to forward herewith a copy of Letter No. F. No. L. 190 17/3/92 JUS. dated 13th/ 23rd April, 1992 received from the Under Secretary to the Government of India, Ministry of Law and Justice (Department of Justice), New Delhi along with its enclosures containing the observation of Hon'ble Supreme Court for information and guidance and for favour of communication to the Subordinate Courts for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

F. No. L. 190 17/3/92-Jus
Government of India
Ministry of Law and Justice
(Department of Justice)
Jaisalmer House, Mansingh Road
New Delhi-11, the 13th / 23rd April, 92.

To

The Registrar,
Orissa High Court, Cuttack, Orissa.

Sub: Arrest and detention of Judicial Officers- Guidelines to Registrars.

Ref: This Department's circular No.190 17/4/90-Jus. dated 26.4.1990/3.5.1990
addressed to the Registrars of all High Courts in India.

Sir,

I am directed to invite your attention to the above cited communication of this Department (copy enclosed) and to say that the Supreme Court in its Judgment delivered on 11.9.1991 in Writ Petition (Criminal) No. s. 517,518 and 523-27 of 1989 Delhi Judicial Service Association, Tiz Hazari Court, Delhi-V-State of Gujarat and Others has Laid down certain guidelines in the case of arrest and detention of a judicial Officer. These guidelines have been circulated by the Ministry of Home Affairs to the Home Secretaries of all States and Union Territories Administration vide D.O. Letter No. VI-250 13/42/89 GPA.II dated 31.3.1992 for compliance. A copy of the same is attached for information and for circulation to all concerned.

2. A perusal of the Judgment of the Supreme Court will also show that the Apex Court has also observed that:

"No Judicial Officer should visit a Police Station on his own except in connection with his official and Judicial duties of functions. If it is necessary for a

Judicial Officer or a Subordinate Judicial Officer to visit the Police Station in connection with his official duties, he must do so with prior intimation of his visit to the District and Sessions Judge.”

3. It is requested that the above observations of the Supreme Court may also kindly be brought to the notice of all concerned including the Subordinate Courts under the Jurisdiction of your High Court for compliance.

Yours faithfully,
Sd/-
P.N, Singh
Under Secretary to
the Government of India

B.K Das

Joint Secretary (CS)

D. O. No. VI-250 13/42/89.GPA.II

BHARAT SARKAR/ GOVERNMENT OF INDIA

GRIH MANTRALAYA/ MINISTRY OF HOME AFFAIRS

New Delhi, the

27.3.1992/31.3.1992.

Dear Sir,

Please refer to this Ministry's instructions regarding use of hand cuffing by the police issued vide this Ministry's Letter No. VII-110 17/15/88- GPA II dated 4.10.88. Recently the Supreme Court of India in its Judgment in a Writ Petition (Criminal) No. 517,518 and 523-527 of 1989-Delhi Judicial Service Association, Tiz Hazari Court, Delhi-V-State of Gujarat and Others, have Laid down following guidelines which should be followed in the case of arrest and detention of Judicial Officers:

- (a) If a Judicial Officer is to be arrested for some offence, it should be done under intimation to the District Judge or the High Court as the case may be.
- (b) If facts and circumstances necessitate immediate arrest of a Judicial Officer of the subordinate Judiciary, a technical or formal arrest may be effected.
- (c) The fact of such arrest should be immediately communicated to the District and Sessions Judge of the concerned district and the Chief Justice of the High Court.
- (d) The Judicial Officer so arrested shall not be taken to a police station, without the prior order or directions of the District and Sessions Judge of the concerned district if available.

- (e) Immediate facilities shall be provided to the Judicial Officer for communication with his family members, legal advisers and Judicial Officers, including the District and Sessions Judge.
- (f) No statement of a Judicial Officer, who is under arrest be recorded nor any panchnama be drawn up nor any medical tests be conducted except in the presence of the Legal Adviser of the Judicial Officer concerned or another Judicial Officers of equal or higher rank, if available.
- (g) There should be no hand cuffing of a Judicial Officer. If, however, violent resistance to arrest is offered or there is imminent need to effect physical arrest in order to avert danger to life and limb, the persons resisting arrest may be over powered and handcuffed. In such a case, immediate report shall be made to the District and Sessions Judge concerned and also to the Chief Justice of the High Court. But the burden would be on the Police to establish the necessity for effecting physical arrest and handcuffing the Judicial Officer and if it is established that the physical arrest and handcuffing of the Judicial Officers was unjustified, the police officers causing or responsible for such arrest and handcuffing would be guilty of misconduct and would also be personally liable for compensation and/or damages as may be summarily determined by the High Court.
2. The above guidelines are not exhaustive but those are minimum safeguards which must be observed in case of arrest of a Judicial Officer. These guidelines should be implemented by the State Government.
3. The State Government/ Union Territories Administration are requested to bring these guidelines to the notice of the concerned officers for compliance. A copy of the instructions issued by the States/ Union Territories may also be forwarded to this Ministry.

Yours Sincerely
Sd/- B.K Das

80

F.No. L. 190 17/4/90-Jus.
Government of India
Ministry of Law and Justice
(Department of Justice)
North Block, New Delhi
Dated 26.4.1990/2.5.1990

To

Registrar of all High Courts of India.

Sub: Practice of handcuffing the arrested persons by police as a matter of routine-guidelines-regarding

Sir,

I am directed to invite your attention to the Judgment of the Supreme Court in Prem Shankar Shukla-V-Delhi Administration (AIR 1980- Supreme Court 526) wherein the indiscriminate use of handcuffs by the law enforcing agencies has not been approved by the Supreme Court. The Honourable Court has also laid down suitable guidelines in the matter. The directions of the Supreme Court had been circulated to all State Governments by Ministry of Home Affairs vide their Letter No. VII-110 17/15/88- GPA.II dated 4.10.1988 (copy enclosed) for compliance. A Perusal of the Judgment will show that a duty has also been cast on the Judiciary as well for ensuring proper implementation of its directives.

2. I am therefore, to request you kindly to bring these directives of the Supreme Court to the notice of all subordinate courts under the jurisdiction of your High Court for proper compliance.

Yours faithfully,

S.K. Bose.

Joint Secretary to the Government of India

Enclosure: as stated above.

No.VII-110 17/15/88-GPA.II

Government of India

Ministry of Home Affairs

New Delhi, dated 4.10.88

To

The Home Secretary of all State Governments/
Union Territories, Administrations.

Sub: Use of handcuffs -guidelines regarding.

Sir,

I am directed to say that this Ministry have issued instructions on the use of handcuffs by police from time to time. It was stressed in this Ministry's Letter No. F.2/13/57-P.IV dated 26th July, 1957 (copy enclosed) that the use of handcuffs should be restricted to cases where the prisoner was a desperate character or there were reasonable grounds to believe that he would use violence or attempt to escape or where there were other similar reasons. While reiterating these instructions, it was impressed upon the State Governments vide this Ministry's Letter No.8/70/74-GPA-I dated 8th November, 1974 (copy enclosed) that there should ordinarily be no occasion to handcuff the prisoners such as Satyagrahi s, persons occupying good positions in public life and processionalists like Journalists, Jurists, doctors, writers, educationists. The instructions were reiterated in this Ministry's D.O.No.15/38/76-GPA.II dated 29.7.1976 (copy enclosed).

2. Further instructions on the use of handcuffs by police were communicated to State Governments in a letter dated 22.8.1978 (copy enclosed) written by the then Prime Minister to State Chief Ministers. In this letter the Prime Minister suggested that handcuffs should not be used expect where there was a reasonable apprehension of violence, escape or rescue and, in no case, merely to humiliate or harass a person. Ordinarily, even such apprehensions would be justified only where

such a person is suspected of being involved in any grave non-bailable offence or has a history of previous conviction for serious offence or is a known bad character. There should also be a clear prohibition in the rules of the use of handcuffs in respect of persons who are bed-ridden in hospital, old and infirm, women prisoners, Juveniles and prisoners involved in Civil Proceedings. Persons accused of violating prohibitory orders in the context of political or other similar demonstrations should also not be subjected to handcuffs.

3. The Supreme Court of India, however, in its order of Writ Petition CRL No. 163 of 1988 dated 4.8.1988 has directed that rules or guidelines may be issued in conformity with the Judgment of that Court in a case of Prem Shankar Shukla-V-Delhi Administration (SCR 855 of 1980) as regards the circumstances in which handcuffing of the accused should be resorted to. While declaring Rule 26, 21A and 26.22 of Chapter XXVI of the Punjab Police Manual as violative of Article 14, 19 and 21 of the Constitution, the Supreme Court Laid down the following guidelines for handcuffing the prisoner.

- i) That no prisoner shall be handcuffed or fettered routinely or merely for the convenience of the custodian or escort.
- ii) That it is arbitrary and irrational to classify prisoners for purposes of handcuffs, into 'B' Class and ordinary Class. No one shall be fettered in any form based on superior class differentia as the law treats them equally;
- iii) Handcuffing of prisoners should be resorted only in exceptional circumstances where there is a clear and present danger of escape or where the concerned accused is so violent that he cannot otherwise be secured. Handcuffing may be avoided by increasing by the strength of the armed escort or by taking prisoners in well protected vans.
- iv) It is only in exceptional circumstance where there is no other reasonable way of preventing the escape of the prisoner that recourse to handcuffing him may be taken. Even in such extreme cases where handcuffs have to be put on, escorting authority must record contemporaneously the reasons for doing so. The belief in

this behalf must be based on antecedents which must be recorded and proneness to violence must be authentic. Vague surmises or general averments that the under trial is a crook or desperado, rowdy or maniac cannot suffice. Merely because the offence is serious the inference of escape proneness or desperate character does not follow.

v) These recorded reasons must be shown to the Presiding Judge and his approval should be taken. Once the Court direct that the handcuffs are not to be used, no escorting authority should over-rule this direction.

4. It is requested that the above guidelines may kindly brought to the notice of all concerned through the Directors General of Police and Inspectors General of Prisons. It may kindly be ensured that the instructions are scrupulously observed.

5. A copy of the instructions issued in the matter may kindly be endorsed to this Ministry.

Yours faithfully,
Sanat Kaul.
Director.

No.6897 / Dated 29.07.1992

From

Shri P.K. Patra,
Registrar (Inspection & Enquiry),

To

All the District & Sessions Judges of the State.

Sub: Change in the periodicity of inspection of Magisterial Courts by the Chief Judicial Magistrates.

Sir,

I am directed to invite a reference to the Resolution No.3 passed in the District Judges Conference of 1991 and to say that the Court have been pleased to concur with the said resolution and accordingly, the old practice of holding half-yearly inspection of Criminal courts by the Chief Judicial Magistrates is restored and the present practice of holding quarterly inspection as per Court's Circular Letter No.15142 dated 8.12.88, is to be discontinued. Further it has been decided that the Chief Judicial Magistrates may make surprise visits to the courts of new entrants to have a watch on their work.

I am, therefore, to request that this may be brought to the notice of all officers working under you for their information and guidance.

Yours faithfully
P.K. PATRA
REGISTRAR (I & E)

No. 6927/ Dated 29.07.1992

From

Shri P.C. Patro.
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: Question as to whether cases filed under the Narcotic Drugs and Psychotropic Substances Act, 1985 are to be transferred to the file of Assistant Sessions Judges.

Sir,

It has come to the notice of the Court that cases under the Narcotic Drugs and Psychotropic Substances Act, 1985 are being transferred by the Sessions Judges to the file of Assistant Sessions Judges for disposal. The Legality of transferring of such cases to the file of Assistant Sessions Judges was under consideration of the Court.

Keeping in view of the provisions contained in Section 36, sub-section (3) of section 36 and transitional provisions in Section 36 D of the Act, the Court have been pleased to observe that cases involving offences under the Act should not be tried by any Judicial Officer below the rank of Sessions Judge or Additional Sessions Judge.

Accordingly, the Court desire that it is not open to the Sessions Judge to transfer a case involving an offence under the Act to an Assistant Sessions Judge.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 7225/ Dated 10.08.1992

From

Shri P.C Patro
Registrar (Judicial),

To

All the District and Sessions Judges of the State.

Sub Amendment of Column 6 and 7 of the Register showing the receipt and movement of case diaries prescribed under Court's Circular Letter No. 1866 dated 22.3.1976.

Sir,

I am directed to refer to item No. 17 of the Proceedings of the Conference of the District Judges held on 31.01.92 and 01.02.1992 and to say that the proposal for amendment of Column 6 and 7 of the Register showing movement of case diaries to obtain the signature of the recipient in token of receipt of case diary was accepted.

The Court concur with the said decisions and observe that Column 6 and 7 of the Register showing the receipt and movement of case diaries prescribed in Court's Circular Letter No. 1866 (8) dated 22.3.76 should be amended as follows.

Column 6- Name of the person to whom the case diary is made over for preparation of copy with Signature and date.

Column 7- The date and signature of the recipient when the case diary is received back after preparation of copy.

I am, accordingly to request that the above instructions may be brought to the notice of all Criminal Courts subordinate to you for their information and guidance.

Yours faithfully,
P.C PATRO
REGISTRAR (JUDICIAL)

No. 7756/ Dated 28.08.1992

From

Shri P.C. Patro
Registrar (Judicial)

To

All the District Judges of the State.

Sub: Hearing the convict on the question of sentence in Criminal trials.

Sir,

I am directed to bring to your notice the decision of the Apex Court rendered in State of Maharashtra-V-Sukhdeo Singh and Another 1992(II) SVLR (Criminal) 4, in which after referring to Allauddin Mian's case and the third proviso to Section 309 of the Code of Criminal Procedure, it was pointed that the section emphasises that an inquiry or trial, once it has begun, should proceed from day to day till the evidence of all witnesses in attendance has been recorded so that they may not be unnecessarily vexed . As to the proviso, it was observed that the same may not entitle an accused to an adjournment, but does not prohibit or preclude the Court from granting one in serious cases, and so, adjournment is not precluded to hear the accused on the question of sentence where the Court feels that the interest of justice so demands.

This has got reference to the Court's Circular No. 213 dated 10.01.1992.

This may be brought to the notice of the Criminal Courts of your Judgeship for favour of information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No.8386/Dated 17.09.1992

From

Shri P.C. Patro,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: Supply of copies of acquittal Judgments in police cases to the Superintendent of police through the Law Inspector /Court's Sub-Inspector of police.

Sir,

I am directed to invite a reference to the decision taken on item No.31 of the District Judge' Conference of 1991 and to say that the Court have been pleased to concur with the said decision and accordingly direct that the copies of acquittal judgments in Sessions/ Police/Railway Police/ Vigilance cases should be sent to the Superintendent of Police concerned through the Law Inspector/ Court's Sub-Inspector posted at the station henceforth and the signature of the recipient be taken in Court's despatch register. The previous Circular Letter No. 1302(2) dated 14.12.87 issued on this point is modified accordingly.

I am, therefore, to request that the above instructions of the Court may be brought to the notice of all the officers working under you for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No.8544/Dated 24.09.1992

From

Shri P.C.Patro,
Registrar (Judicial)

To

The Director of Public Prosecutions, Orissa, Bhubaneswar.

Sub: Obtaining copies of the Under Trial Prisoners Statements in suitable cases by making correspondence with the concerned Chief Judicial Magistrates.

(Item No. 32 of the proceedings of the District Judges Conference, 1991)

Sir,

I am directed to invite reference to item No. 32 of the proceedings of the District Judges 'Conference, 1991 and to say that it has been resolved that in suitable cases you may make correspondence with the concerned Chief Judicial Magistrates to get copies of the Under Trial Prisoners statements for your reference. Necessary information in that regard may also be collected from this Court whenever required.

Yours faithfully,
P.C.PATRO
REGISTRAR (JUDICIAL)

No. 8737 / Dated 01.10.1992

From

Shri P.C.Patro,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: Observations made by the Hon'ble Supreme Court in a decision reported in (1992) 3 Supreme Court cases 40 (Premraj-V-Union of India) for expeditious disposal of Land Acquisition cases.

Sir,

In enclosing herewith a copy of Supreme Court's Order dated the 15th March, 1991 passed in Writ Petition No. 179 of 1991 (Premraj-V-Union of India), I am directed to say that in pursuance of the observations made therein, the Court have been pleased to direct that the following instructions be scrupulously observed by all concerned.

1. All the Subordinate Courts who deal with Land acquisition cases should set apart at least one day in a week to hear those cases exclusively on that day. They may also post such cases for hearing on other days if necessary. If no sufficient work is available in Land Acquisition matters on the allotted day, the Court, of course, should devote it's time to hear and dispose of other matters. The Court however, should give priority to those cases in preference to others.
2. If such cases are not disposed of within the time frame as indicated by the Hon'ble Supreme Court, an explanation should be submitted by the presiding Officers of the concerned Courts to this Court through the District Judges separately by 10th of each month succeeding the quarter of the calendar year showing the reasons for pendency for more than one year. Unless the reasons are found to be satisfactory, appropriate Administrative action may be taken against the defaulting officer.

3. The District and Sessions Judges should assess the pendency position from time to time and suggest to the Court, if it is necessary to set apart a Court at any particular station or stations for disposal of such cases within the time limit prescribed by the Hon'ble Supreme Court.
4. The District Judges should review the pendency of such cases in the Subordinate Courts at the beginning of each quarter and submit their reports as to whether the concerned referee courts are following the observations by the Hon'ble Supreme Court or not.

I am, therefore, to request that the above directions of the Court should be brought to the notice of all the Courts subordinate to you for their information and guidance.

Yours faithfully,
P.C.PATRO
REGISTRAR (JUDICIAL)

Supreme Court of India

(BEFORE RANGANATH MISRA, C.J. AND M.H. KANIA AND KULDIP SINGH, JJ)

PREM RAJ

Petitioner;

Versus

UNION OF INDIA

Respondent.

Writ Petition No. 179 of 1991, decided on March 15, 1991

Land Acquisition Act, 1894-S. 18-State directed to ensure disposal of applications for reference to court within 3 to 6 months of their filing-Land acquisition officers should be made liable to explain their superiors the delay beyond three months - Reference courts should dispose of references within 1 to 2 years of receipt of the reference- References under S. 18 should be treated as a class by themselves entitled to priority- Cases can be disposed of by clubbing them group wise and recording evidence after taking consent of counsel for the parties- High Courts in exercise of their controlling powers should ensure this position- State Govt. should also take timely initiative in requiring their officers to comply with these directions -

ORDER

1. On hearing counsel, we find that the point raised is not controversial in nature and perhaps even notice to the Union of India may not be necessary before disposal as the directions which we have to make are neither specific nor to the prejudice of the Union of India.

2. Exercise of the right of eminent domain is not in dispute. Petitioners have assumed themselves to be representatives of that group of land owners whose lands were acquired in the exercise of the right of eminent domain but compensation is not paid for years together following the publication of the preliminary notification under Section 4(1) of the Act or even after dispossession. It has been indicated that even in respect of acquisitions of 1957 and 1962 litigation has still been pending in the referee court.

3. We would like to point out to the Union of India and the various States and Union territories which under the Land Acquisition Act have the powers to acquire properties of citizens in this country either for themselves or on behalf of others that under the Amending Act of 1984 the liability for compensation has been substantially enhanced and the same has to be paid out of ultimately the State coffers or the funds of the acquiring authority. Inaction and delay lead to increase of the said liability. It is, therefore, of paramount importance that public money should not be wasted by sitting over applications made by dissatisfied claimants asking for reference to the court.

4. Serious view should be taken of the fact that applications for reference are withheld by the land acquisition officer without disposal for time beyond any explanation. Similarly, references when made under Section 18 of the Act to the court are treated as ordinary litigation and put into the pipeline for disposal in due course which sometimes means 12 to 15 years. The court is also socially accountable and delayed disposal of a reference which ultimately costs the States heavily has to be taken into account in planning disposal of court proceedings.

5. We, therefore, direct that the States should ensure disposal of applications for reference to the court when moved before the Land Acquisition Collector and though the statute has not given a period for disposing of such applications, these applications should be disposed of within three months of being made and the outer limit should not exceed six months. The land acquisition officers should owe explanation to the superiors in the event of delay beyond three months and States should take appropriate care to issue clear and strict orders to the land acquisition officers inviting their attention to the liability that might arise due to delay in disposal of such applications and State should occasionally even consider sharing of the liability with the land acquisition officers personally so that the responsibility of the land acquisition officers in the matter may be appropriately realised.

6. We are aware of the problem of backlog in most of the courts. The references under Section 18 should be treated as a class by themselves entitled to priority attention. If care and attention are devoted at the appropriate time, these cases can be easily disposed of by clubbing them group wise and recording

evidence after taking the consent of counsel for the parties. Most of the acquisitions these days relate to large patches of land and ordinarily they are covered under one notification. Cases which are covered by a common notification should be clubbed together for which a statutory foundation is available in the Amending Act of 1984 in extending the benefit of higher compensation to all lands covered by a common notification even if dispute is not raised. If that is done the total number of cases where evidence would be necessary, is likely to be reduced and better attention can perhaps be given. The High Courts should take special note of the pendency of land acquisition references and where it is possible a court may be set apart for those cases.

7. We expect every referee court to dispose of the references ordinarily within one year of receipt of the reference and the outer limit should be the end of the second year. The High Courts in exercise of their controlling powers should ensure enforcement of this position so that all pending references in the subordinate courts at the original stage may be disposed of within time frame indicated above.

8. We hope and trust that timely initiative would be taken by the State Governments in requiring their officers to comply with our directions and similarly we look forward with hope that the High Courts shall pay appropriate care and attention to ensure that the referee courts act up to what we have expected of them. Since, it is a beginning in the matter, we do not propose to deal with any further nor do we want to go beyond the referee court for the present. Since we have dealt with the matter generally, we do not propose to make any directions in this case.

R.N.MISRA .CJ

M.H. KANIA .J

KULDIP SINGH. J

No. 8919 (13)/.Dated 20.10.1992

From

Shri B.N. Patnaik,
Registrar (Administration)

To

The District and Sessions Judge,.....(all)

Sir,

It has come to the notice of the Hon'ble Court that persons accused of offences under the Narcotic Drugs and Psychotropic Substances Act have been released on bail by Sessions Judges despite non-fulfillment of the requirements of Section 37 of the Act, relying on the decision of this Court in Bidyadhar-V-State, 1992 (5) OCR 31, according to which if there is non-compliance of certain provisions of the Act, arrest and detention would be illegal.

It has become necessary to point out that in Bidyadhar's case relief had been granted to the accused, not by releasing on bail under Section 439, Cr.P.C., but by exercising power of this Court under Section 482, Cr.P.C, which power is not available to a Sessions Judge. So, what was stated in Bidyadhar's case has no application to petition under Section 439, Cr.P.C.. You would , therefore, see that persons accused of offences under the aforesaid Act are not released on bail by relying on Bidyadhar's case.

Yours faithfully,
B.N. PATNAIK
REGISTRAR (ADMINISTRATION)

No.9203(13)/Dated 29.10.1992

From

Shri B.N Patnaik
Registrar (Administration)

To

All the District & Sessions Judges of the State.

Sub Maintenance of Judgment Register

Sir,

I am to say that a proposal for maintenance of a "Judgment Register" in respect of all judgments and judicial orders pronounced by the judicial officers was under consideration of the Court.

The Court have been pleased to direct that in order to facilitate the Inspecting Officers and the Court to know at a glance the reasons of delay if any, in the delivery of judgments and judicial orders against which appeal or revision shall lie, two registers, one for Civil cases and another for Criminal cases should be maintained by all the judicial officers henceforward in the proforma appended hereto in respect of all judgments and judicial orders.

The Court further direct that all Inspecting Officers shall verify this register invariably at the time of inspection and if they find any delay in delivery of judgment or order for which no adequate reasons exist, the same should be mentioned in the Inspection report.

I am, therefore, to request that the above instruction of the Court may be brought to the notice of a Judicial Officers working under you for their information and guidance.

Yours faithfully
B.N PATNAIK
REGISTRAR (ADMINISTRATION)

Proforma

Judgment Register

Sl No .	Name and Designation of the Presiding Officer	Case No. with the first names of the parties	Initial date of hearing of argument	Date of closure of the argument	Date(s) fixed for delivery of Judgment/order	Date(s) of delivery of Judgment /order	Remarks
							Reasons for delay, if any, in delivery of Judgment/order
1.	2.	3.	4.	5.	6.	7.	8.

No.9312 / Dated 03.11.1992

From

Shri P. C. Patro
Registrar (Judicial),

To

All the District and Sessions Judges of the State.

Sub:- Inspection of Legal Aid cases.

Sir,

I am directed to invite reference to Court's letter No.705 dated 20.1.88 in which it was directed that the District Judges and Chief Judicial Magistrates shall inspect Legal Aid Case records while on inspection and deal with instances of deviation if any in their notes of inspection.

In the District Judges' Conference,1991 under item No.7 the question of following the aforesaid instruction of the Court was considered and it was resolved that the Chief Judicial Magistrates shall report about the defaulting courts to the concerned District Judges. It was further resolved that the word "activities" shall be substituted for the word "cases" after the words "Legal Aid" occurring in the sixth line of the aforesaid Court's Circular letter.

I am, therefore, to request that the aforesaid resolutions of the conference may be brought to the notice of all concerned for their information and guidance.

Yours faithfully
P.C.PATRO
REGISTRAR (JUDICIAL)

No.9419/Dated 05.11.1992

From

Shri P.C.Patro
Registrar (Judicial)

To

All District and Sessions Judges of the State.

Sub:- Review of progress achieved in the disposal of cases involving Under Trial Prisoners (Item No. 2 of the proceedings of the District Judges' Conference, 1991).

Sir,

I am directed to invite reference to Item No.2 of the proceedings of the District Judges' Conference,1991 held on 31st January and 1st February, 1992 on the above subject. On a review of the statement showing disposal of cases involving Under Trial Prisoners it was noticed that despite repeated instructions from the Court quite a few such cases were still there on the trial files of certain Magistrates. It was resolved that all possible steps should be taken by the Criminal Courts for expeditious disposal of cases of Under Trial Prisoners. The Chief Judicial Magistrates should verify such case records as often as possible to ensure that no Under Trial Prisoner is detained in Jail custody for a period exceeding the maximum period under which he is charged.

It was further resolved that the attention of the Director of Public Prosecution should be drawn when cases of this nature are required to be adjourned for non-attendance of Medical Officers and Investigating Officers and in cases which are being unduly delayed, this Court should be informed about repeated failure of the concerned officers in attending the court to give evidence despite service of summons.

The Court after careful consideration of the matter have been pleased to concur with the aforesaid decisions and direct that the above instructions should be strictly followed by the Courts dealing with the cases of Under Trial Prisoners.

I am, therefore, to request that the above instructions may be brought to the notice of all the Subordinate Courts working under you for their information and guidance.

Yours faithfully
P.C.PATRO
REGISTRAR (JUDICIAL)

No.9866/Dated 20.11.1992

From

Shri B.N.Patnaik
Registrar (Administration)

To

All the District and Sessions Judges of the State.

Sub:- Mentioning the date of conclusion of the argument, date of Judgment/Order and the reasons for delay, if any in delivery of Judgment/Order in the body of Judgment/Order.

Sir,

It has come to the notice of the Court that there is no practice of mentioning the date of final hearing of argument and the reasons for delay, if any, in delivery of Judgment/Order in the body of the Judgment/Order.

2. The Court, therefore, consider it desirable that the aforesaid facts such as date of conclusion of the argument besides the date of Judgment/Order should be mentioned at the top of the Judgment/Order and the reasons of delay, if any, in the delivery of Judgment/Order should be mentioned at the end of the Judgment/Order.

I am accordingly to request that the above instructions of the Court may be brought to the notice of all the Judicial Officers for their information with instruction to mention the above facts in the Judgment/Order invariably.

Yours faithfully
B.N.PATNAIK
REGISTRAR (ADMINISTRATION)

No.10867/Dated 24.12.1992

From

Shri B.N.Patnaik,
Registrar (Administration),

To

The District and Sessions Judge, Cuttack

Sub: Question as to whether in the absence of the accused in a warrant case at the time of pronouncement of the judgment a sentence of fine only can be imposed in accordance with Sub-Section (6) of Section 353 Cr.P.C.

Sir,

I am directed to invite a reference to the discussions held with the Judicial Officers at Cuttack on 31.10.92 by Hon'ble the Chief Justice where a doubt was entertained on the question whether a sentence of fine only can be imposed in accordance with Sub-section (6) of Section 353 Cr.P.C., without hearing the accused on the question of sentence as required under Sub-section (2) of Section 248 Cr.P.C.,1973.

The Court are of the view that Sub-section (6) of Section 353 Cr.P.C. provides that a sentence of fine or an order of acquittal shall be pronounced in the absence of accused, which is applicable to all types of trial and so has to be regarded as general in nature. Sub-section (2) of Section 248 Cr.P.C. contemplates that in a warrant trial, the accused shall be heard on the question of sentence and so it is special.

The Court further observe:

Despite the above, ends of justice would be met if while hearing the case on merits regarding conviction the question of sentence is also heard, particularly when the case is of a nature where the trial judge be of the view that he would like to award a sentence of fine in case of guilt being established. This is permissible in

view of the recent judgment of the Supreme Court in State of Maharashtra-V-Sukhdev Singh,1992(3) SCC 700, which dealt with the question of hearing on sentence (which in that case was of death) required by Section 235(2), Cr.P.C. applicable to Sessions trial, which provision is thus in pari materia with Section 248(2). This would appear from what has been stated in paragraphs 25 to 27 of the judgment in which the ultimate view taken is that the test to be considered in this regard is essentially one of prejudice. (Sukhdev's case has also been reported in 1992 (5) OCR (SC) 493, though not fully, and this aspect has been dealt with at pages 515 to 518).

The above would meet the demand of law as well as take care of unnecessary adjournments of pronouncement of judgments only on the ground of absence of the accused in a case of the aforesaid nature. But then, the judgment should reflect the reason for fixing the amount of fine imposed, on which aspect of the matter only in a case of the present nature, hearing can be said to have been required. It is apparent that while giving reasons, all relevant considerations shall have to be dealt with to avoid any possible future argument that non-hearing on the question of sentence by adjourning the case for this purpose after finding the accused guilty has resulted in prejudice. It would be better to deal, inter alia, with the financial State of the accused, on which aspect mainly the accused could have addressed in so far as the question of amount is concerned. Apart from the financial status of the accused something may be said about the need of the Victim, who is required to be compensated. It is worth pointing out that as per the spirit of the decision in Hari Kishan-V-Sukhbir, AIR 1988 SC 2127, fine, imposed, should normally be made payable to the victim as compensation, which even otherwise was being ordered by the trial judges.

I am, therefore, to request that the above instructions may be brought to the notice of all concerned for their information and guidance.

Yours Faithfully

B.N.PATNAIK

REGISTRAR (ADMINISTRATION)

No. 222/ Dated 12.01.1993

From

Shri B.N. Pattnaik, LL.M.,
Registrar (Administration)

To

All the District and Sessions Judges of the state.

Sir,

It has come to the notice of this Court that in many cases persons accused of offences under the Narcotic Drugs and Psychotropic Substances Act (for short "the Act") are being released on bail without applying mind to the requirements of section 37 of the Act taking the case to be one of "small quantity" under Section 27 thereof. This is not permissible under the law, as would appear from the judgment of this Court in *Suo Motu Criminal Misc. Case No. 1949 of 1992* (copy enclosed).

This may be brought most urgently to the notice of all concerned dealing with cases under the Act for their guidance.

Yours faithfully,
B.N. PATTNAIK
REGISTRAR (ADMINISTRATION)

IN THE HIGH COURT OF ORISSA: CUTTACK

SUO MOTU CRIMINAL MISCELLANEOUS CASES NO. 1949 OF 1992

Arising out of an order dated 29.3.1992 passed by Shri. B.N. Patnaik Sessions Judge, Sundargarh in Criminal Misc. Case No. 138 of 1992.

State of Orissa, petitioner.

Versus

Ganapati Mophanty.Opposite party

For Petitioner :

For Opposite Party Shri R.N. Panigrahi,
D.P. Mohapatra
D. Panigrahi and
P. Tripathy

Present:

THE HONOURABLE CHIEF JUSTICE SHRI B.L.HANSARIA

Date of final hearing: 24.12.1992 Date of Judgment 4.1.1993

A suo motu proceeding was started on coming to the notice of this Court that a person accused of an offence under the Narcotic Drugs and psychotropic Substances Act (herein after, "the Act") had been released on bail by the Sessions Judge, Sundargarh in Criminal Misc. Case No. 138 of 1992 in exercise of power under Section 439, Criminal Procedure Code by relying on a decision of this Court in Bidyadhar Dalai-V-state, 5 OCR 31 in which this Court in exercise of power under Section 482, Cr.P.C.(which power is not available to a Sessions Judge) had quashed the detention, because of which the requirements of Section 37 of the Act were not borne in mind. That Judgment made it clear in paragraph 15 that the accused persons were not being released on bail in exercise of power under Section 439 Cr.P,C. The learned Sessions Judge however did so without adverting to the requirements of Section 37 of the Act, which appeared prima facie to be illegal.

2. Shri Panigrahi has appeared for the opposite party and the only submission made by him is that the present case attracted Section 27 of the Act, because of which the offence would have been punishable with imprisonment up to a maximum period of one year; so, the requirement of Section 37 (1) (b) of the Act are not to be complied with before the opposite party could be released on bail. This stand has been taken by the learned counsel, because the impugned order of the learned Sessions Judge clearly shows that the requirements of Section 37 (1) (b) had not been borne in mind.

3. The submission relating to possession of "small Quantity" has been taken, as the article seized from the possession of the accused were Ganja powder, leaves, buds etc. and had weighed 250 grams As per Notification No. S.O.827 (e) dated November 14, 1985, Ganja up to 500 grams would be regarded as of 'small quantity" for the purpose of section 27 of the Act. So, Shri Panigrahi is right in contending that the present was a case of "small quantity".

4. The important question is whether in a case of small quantity, the requirements of Section 37 can be said to be non-applicable. From what is being stated later, it would be clear that this is not so.

5. The reason for the aforesaid view is that Section 27 is really not punishing Section. The same is, in so far as illegal possession of the articles in question is concerned, Section 20 (b), which visualizes punishment, if the case were to attract sub-clause (i), up to five years imprisonment (and if sub-clause (ii), up to 20 years), which would undoubtedly bring into operation Section 37 (1) (b), because that applied to cases of offences punishable with a term of imprisonment of five years or more. What Section 27 visualizes is that "if it is proved" that the "small quantity" of the article in question was intended for personal consumption and not for sale etc., the accused notwithstanding anything contained in Chapter IV (in which chapter section 27 appears, so also Section 20), shall be punishable with a term which may extend to one year if clause (a) were to be attracted, and in other case up to six months, It is apparent that the question of the applying Section 27 of the act would arise only during final trial and really after the accused has otherwise

been found guilty. This is so because, for the case to come within the fold Section 27, the accused has to prove that the article in question had been intended for his personal consumption and not for sale etc. The accused shall be able to prove this only during the course of trial, and not at any time preceding it, So, even if a case were ultimately to attract the operation of section 27 of the Act, at the stage of Considering the question of release of the accused on bail, this section is irrelevant; and the case has to be decided on the basis of the Section which makes the offence punishable, which, in the present case, was Section 20(b), as already noted, which attracts rigor of Section 37 (1) (b).

6. The aforesaid view has been taken by this Court in a number of cases, of which reference may be made to: (1) Criminal Misc Case no. 1422/92 disposed of on 1.10.1992, in which a learned Single Judge of this Court held that Section 37 was required to be complied with, on a submission being made that the recovery being of 50 grams of Ganja, the same was of "small quantity" bringing into operation of Section 27 of the Act, by pointing out that Section 27 is not a "charging Section" (i.e., "Punishing Section") but is one, of which note had to be taken at the time of awarding punishment at the conclusion of the trial; and (2) Criminal Misc Case No. 2001/92, which case could come under Section 27 of the Act, the petition being withdrawn on 23.12.92 apparently because of the offence could not have avoided the rigour of Section of the Act merely because of the quantity being small.

7. Shri Panigrahi lastly refers to Narcotics Control Bureau-V-Krishan Lal, AIR 1991 SC 558, in which it was held that the High Court was required to bear in mind, while dealing with the prayer for release on bail under section 439, Cr.P.C relating to an offence covered by the act, that limitations imposed by section 37 are to be borne in mind which had not been done, Despite this, the release of the accused on bail by the High Court was not cancelled, as would appear from paragraph 8 of the judgment. The learned counsel submits that the same view may be taken in the present case. I have not felt persuaded to do so, because reference to paragraph 8 of the aforesaid judgment would show that the Narcotic Control Bureau itself had not pressed for cancellation of bail, perhaps because it was more

interested in getting the law on this subject pronounced by the apex court. As the decision in the aforesaid case had been rendered in January, 1991 and was reported in the March issue of the All India Reporter, 1991, and as in the present case the order of release on bail by the Session Judge in exercise of power under Section 439, Cr.P.C. was passed on 20.8.1992 without bearing in mind the requirements of Section 37 (1) (b) of the Act, it would be grossly unfair to the prosecution, indeed to the larger public interest to serve which the Act has been enacted, if a palpably illegal order were not set aside.

8. The order of bail granted by the learned Sessions Judge is therefore, set aside with the result that the bail granted to the accused stands cancelled who shall surrender forthwith.

B.L. Hansaria,
Chief Justice

Orissa High Court, Cuttack

The 4th January, 1993

No. 569/ Dated 19.01.1993

From

Shri B.N. Pattnaik, LL.M.,
Registrar (Administration)

To

The District and Sessions Judge,(all)

Sub:- Procedure for trial of cases in respect of an Under Trial Prisoner who faces trial into different courts.

Sir,

It has come to the notice of the Court that when an Under Trial Prisoner faces trial in two different courts, one of the trials remains stalled for a long time because he is needed by another court.

After careful consideration of the matter, the court have been pleased to observe that in such a case the Court before whom the under trial prisoner is not being produced is required to take steps for production of the accused before it, instead of waiting for disposal of other case. In this connection, Section 269 (b) of the Code of criminal procedure, 1973 is to be read along with proviso to section 6 the prisoners (Attendance in Courts) Act, 1955. Reference may be made to the observation of the supreme Court in Kanu Sanyal-V-District Magistrate, Darjeeling and others reported in AIR 1974 S.C.510.

I am, therefore, directed to request you that the above instruction may be brought to the notice of all the subordinate courts under your control for information and guidance.

Yours faithfully,

B.N. PATTNAIK

REGISTRAR (ADMINISTRATION)

110

No. 908(13) / Dated 29.01.1993

From

Shri J.M. Patnaik,
Deputy Registrar (Admn.& Protocol)

To

The District Judge.....(all)

Sub: Circulation of Judgment of Criminal Misc. Case No. 617 of 1988 of Hon'ble Court.

Sir,

I am directed to send herewith a copy of judgment in Criminal Misc. Case No. 617/88 of the Hon'ble Court for your information and to request you kindly circulate the same to all the Judicial Officers under your control.

Yours faithfully,
J.M. PATNAIK
DEPUTY REGISTRAR (A&P)

IN THE HIGH COURT OF ORISSA: CUTTACK

CRIMINAL MISC CASE NO. 617 OF 1988

In the matter of an application under section 482 of the Code of Criminal Procedure, 1973.

Sarat Chandra Acharya Petitioner,

-Versus-

State of Orissa Opposite Party

For Petitioner: Shri J. Patnaik

For Opposite Party: Shri S.K. Das

Government Advocate

For Bar Council: Shri A. Mukherjee and

Shri Haraprasad Naik.

P R E S E N T :

THE HON'BLE THE CHIEF JUSTICE SHRI B.L. HANSARIA

AND

THE HON'BLE SHRI JUSTICE B.N. DAS

Date of final hearing : 3.12.1992 Date of Judgement : 3.12.1992

B.L.HANSARIA. C.J. Being seized with a case in which an advocate is facing prosecution under section 419/109 I.P.C., the quashing of which has been prayed for in this petition, the learned single Judge desired that some issues of importance

relating to the administration of justice may be decided by a larger Bench, and it is because of this that the matter is before us.

2. The issues involved are:

- (i) Whether an advocate while identifying a surety required for releasing an accused on bail, acts as a lawyer?
- (ii) Whether identification by a lawyer should at all be insisted as is required by Form No. (M) 83-A of General rules and Circular Orders (Criminal)?
- (iii) When can an advocate be prosecuted if it is subsequently found that a wrong person had been identified by him?

3. As the matter involved the entire Legal Profession, a notice was issued on the Bar council of the state which has appeared through Shri Mukherjee who is being assisted by Shri Haraprasad Naik of Sambalpur Bar. Shri B.H. Mohanty states that Cuttack Bar Associations has also intervened in the matter. We have perused the affidavit filed by the Secretary of the Bar Council and heard learned Counsel appearing for the Bar Council as well as Shri Patnaik for the petitioner and Shri Das, learned Government Advocate for the State. The Bar Council resolution, which is quoted art paragraph 4 of the affidavit, reads as below:-

“After perusal of all suggestions of various Bar Associations as well as advocates and after thorough discussion the Bar Council is of the view that deliberate wrong identification by an Advocate may amount to professional misconduct and also given rise to criminal liability depending upon the facts on each case and mere wrong identification by an Advocate without anything more may not give rise to criminal liability as per principle laid down by the Hon’ble Supreme Court reported in AIR 1972 S.C.2598.”

4. The aforesaid shows that the Bar council is not of the view that identification by an advocate is not permissible or desirable. Indeed, the resolution accepts that an advocate may identify, but states that it is only “deliberate wrong identification” which may give rise to professional misconduct or criminal liability depending upon the facts on each case.

5. It is known that a counsel performs three functions. He acts, appears and pleads. The Bar council of India has framed some rules governing advocates as finding place in Part VI of the Rules, Chapter I of which deals with restrictions on senior advocates, stating, inter alia, that a senior advocate shall not file a vakalatnama or act. The Explanation defines the expression "To Act" to mean "to file an appearance or any pleading or application in any court.....or to do any act other than pleading required to authorized by law to be done....." So, an advocate, who is not a senior advocate, can 'act', which word would mean doing any act authorized by law. The question is whether identification can be said to be act authorized by law. That this is so has been held in Hiralal Vrs. Delhi Administration. AIR 1972 SC 2598, which case dealt with the question of committing an offence under section 102-B read with sections 419, 420, 511 I.P.C. and section 467 read with section 471 I.P.C by an advocate who falsely identifies a person in the court of law. In the present reference we are not addressing ourselves on the question as to whether ingredients of the aforesaid offences are present to merit quashing, which is the prayer of the petitioner, as that is a question which will be taken up by the learned single Judge. As to the act of identification, it was stated in paragraph 9 of Hiralal's case that by doing so, the advocate "did nothing beyond what a lawyer is authorized to do in a court of law". So, we would hold that identification is authorized by law, and if a lawyer identifies, he acts, which is authorized by law. This is our answer to the first question.

6. The second question is whether identification by an advocate should be insisted upon. Shri Mukherjee contends that one of the relevant sections of the Code of Criminal procedure these being 81, 436,437 and 438, require identifications. Our attention is also invited to section 441 which deals with bond of accused and sureties. We are then referred to Form No. 45 of the Code, in which there is no mention about identification, which is enjoined by this court form noted above. If this Court's form is read with rule 72 finding place in General Rules & Circular Orders (Criminal), Vol-I, the necessity of identification by an advocate becomes clear, Sub-Rule (1) of that rule is relevant for our purpose which reads:-

“ The responsibility for accepting the surety as solvent for the required amount is primarily that of the Presiding Officer of the court and in Ordinary cases he should discharge it himself by making such summary enquiry as in the circumstances of the case he might think fit. This enquiry should in no event be left to be done by the Bench clerk or any other official of the Court.”

It is apparent that before releasing an accused on bail, who is called upon to provide surety also, the court has to be satisfied that the person who is standing as a surety is acceptable. This is for good reasons, as without being satisfied about the acceptability of the surety, if the accused persons would be released on bail, there would be no way to procure their presence if bail bond was to be not honored, which would bring chaos in the system of administration of justice. So, the surety has to be one who is acceptable to the Court.

7. Now, how does a court feel satisfied about the acceptability of a surety? The Court, except in rare cases where a surety may be personally known to it, has to rely on somebody to regard the surety as acceptable. Who else than an advocate can discharge this function in our system of administration of justice? If the Courts were not to insist on identification by advocates, the consequences would be, as submitted by Shri Naik, the accused persons would not be released on bail for a long time or not released at all, which consequence cannot be allowed to happen. It is the identification of the surety by an advocate which assures the mind of the Court, resulting in acceptance of the surety.

8. One of the submission made before the learned single Judge was that to make the surety acceptable it may be insisted by the Court that he should file an application along with the recent photograph attested by the nearest public official with his seal, namely, the Tahasildar, B.D.O., Officer-in-charge of the Police Station, Sarpanch, Chairman of the Municipal Council or other responsible officers of the Government, M.L.A. etc. we do not find this submission workable because, in such a case, the Court shall have to be satisfied that attestation has been properly done, or it has been attested by the correct person. In the present state of affairs prevention in the country, it would be too much of risk for a Court to accept the

surety the moment a photographer attested by one of the aforesaid functionaries is filed. We would not like the Courts to take such a risk. As presently advised, therefore, we are of the opinion that there is no viable alternative to the identification by an advocate, and so, there is no necessity of suggesting any modification to Form No. (M) 83-A.

9. A further question of general importance for the legal profession may be that under what circumstances an advocate identifying a surety should be thought of for prosecution in case it is found that the identification was wrong. As to this, we would first observe that when an advocate identifies a surety, the Court does not question the advocate to find out, nor is it possible to find out, whether the identification by him is correct or not. It is for the advocate concerned to get himself satisfied as best as he can under the circumstances whether he is identifying a correct person. It is his responsibility and not that of the Court. As to how an advocate shall feel satisfied in this regard is a matter on which we do not propose to say anything as that would vary from case to case and circumstances to circumstance. As, however, an advocate shall ultimately be convicted for false identification only on being proved that the identification was made attracting the required mens rea contemplated by sections 419, 420, 511, 467 or 205 of the Penal Code, it would be desirable for the Court before deciding to prosecute the advocate to satisfy itself, as far as possible, that the identification by the advocate was false. This would avoid those prosecutions which may flounder even at the threshold, because of the High Courts exercising the power of quashing, which in a case of the present nature would be permissible if taking the allegations made on their face value and accepting them in their entirety, would not constitute the offence alleged, which is one of the grounds of quashing, as stated in *R.P. Kapoor Vs. state of Punjab*, AIR 1960 SC 866, which is also the purport of Hiralal's decision, in which case commitment of an advocate to the Sessions Court in a case of the present nature came to be quashed, because of the absence of the required mens rea, This would take care of unfounded prosecution of advocates on the ground of false identification. This would help advocates to engage themselves in such an act without inhibition which would also ensure smooth functioning of the system. This should satisfy the mind of the Bar Council which wants protection of its members

from unwanted prosecutions for acts done by them in due discharge of their professional work.

10. The third question posed above is not amenable to a general answer. It would depend on the offence alleged against the advocate which would determine whether mens rea is required, and if so, of what nature. It would vary from case to case. We do not, therefore, propose to say anything in this regard.

11. Let a copy of this order be forwarded to the State Bar Council and let the purport of what has been stated above about the desirability of a preliminary enquiry before deciding to prosecute an advocate for false identification be brought to the notice of all the District & Sessions Judges for information of all the judicial officers under them.

12. The case may now be placed before the learned single Judge for deciding it on merits.

B.L. HANSARIA, CJ.

I agree.

B.N. Dash.

Orissa High Court, Cuttack

December 3, 1992.

No. 1495/ Dated 22.02.1993

From,

Shri B.N.Patnaik. O.S.J.S,
Registrar (Administration),

To

All the District & Sessions Judges of the State.

Sir,

It has come to the notice of the Court that some of the presiding Officers of the Subordinate Courts have been adjourning the date of Judgment/final order in Civil and Criminal cases without pronouncing the same on the date initially fixed after hearing the arguments without assigning any reason. This practice is not desirable.

I am, therefore, directed to say that Judgment/ final order in a case should be pronounced on the date fixed initially after the conclusion of the arguments. If the Judgment/ final order is not delivered or passed on the first date, the concerned presiding officer should record reason in the order sheet and also inform the High Court about the same on the next date through his District Judge, who shall forward the same to the Court with his comments. In case of the District Judge, their reports with reason should be made available to the Court on the next date.

I am, therefore, to request you to bring this instruction to the notice of all the Subordinate Courts working under your control for strict observance.

Yours faithfully,

B.N.PATNAIK

REGISTRAR (ADMINISTRARTION)

No. 1654/ Dated 24.02.1993.

From

Shri P.C. Patro,
Registrar (Judicial)

To

The District & Sessions Judge,.....(all)

Sub: Withdrawal of instructions contained in General Letter No. 2 of 1955(Criminal)

Sir,

I am directed to invite a reference to General Letter No. 2 of 1955 printed at page 31 of the booklet captioned as "Compendium of General Letter and Circular" issued by Orissa High Court (Criminal) and to say that the Court, after careful consideration, observe that in view of the deletion of Rule 47 of Chapter XVIII at page 44 of the Orissa High Court Rules, 1948 (Volume-I) instructions issued in General Letter No. 2 of 1955 have ceased to be useful, so, the same may be treated as withdrawn.

This may be brought to the notice of all the subordinate courts working under you.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 1708/ Dated 26.02.1993

From

Shri B.N. Pattanaik, LL.M.,
Registrar (Administration)

To

The District & Sessions Judges of the State.

Sub: Grant of Anticipatory Bail.

Sir,

I am desired to invite your attention to the discussion in the last District Judges' Conference held on 5th and 6th February, 1993 and to enclose herewith a note on "Grant of Anticipatory Bail" with a request to bring the same to the notice of all concerned for information and guidance.

Yours faithfully,
B.N. PATTANAİK
REGISTRAR (ADMINISTRATION)

GRANT OF ANTICIPATORY BAIL: A NOTE.

1. A Constitution Bench of the Supreme Court in *Gurbaksh Singh-V-State of Punjab*, AIR 1980 SC 1632, has in paragraph 35 of the judgment broadly indicated the area of operation of Section 438 of the Code of Criminal Procedure, after having observed in Paragraph 12, while commenting on the legal position as enunciated by a Full Bench of the Punjab & Haryana High Court in *Gurbaksh Singh-V-State of Punjab*, AIR 1978 P & H 1, mentioning 8 points which were noted in paragraph 11 of the Judgment, that section 438 being couched in terms broad and unqualified, its width and amplitude ought not be cut down so as to read into the language of the statute restraints and conditions which the legislature itself did not think it proper or necessary to impose. It had also been stated in paragraph 14 that on matters which rest on discretion, generalization or attempt to discover formulae of universal application is bound to frustrate the very purpose of conferring discretion.

2. One point which may be nonetheless highlighted is that the consideration which are relevant for deciding whether an accused shall be released on bail after arrest, which is taken care of by section 437, are not to guide the consideration for the grant of anticipatory bail for the simple reason that section 438 power is invoked before arrest, whereas section 437 comes into play after arrest. This has been made very clear in paragraph 25 of the aforesaid judgment.

3. In view of the above, what was held by this Court in paragraph 10(C) of *Bhagirathi Mahapatra*, 41 (1975) CLT 619, should be held to be not a good law. This apart, what was stated in paragraph 8, laying down the tests to be satisfied, also have to be regarded as having lost their force, despite endorsement of that view by another Division Bench in *Santosh Kumar Padhan-V-Lalbihari Behera*, 61 (1986) CLT239.

4. In paragraph 31 of *Gurbaksh Singh's Case*, it has, however been held that the nature and seriousness of the proposed charges has to be borne in mind. This apart, the fact that if it were to appear that the proposed accusation stamped not from motives of furthering the ends of justice but from some other ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the

antecedents of the applicant that taking advantage of the order of anticipatory bail, he will flee from justice; such an order would not be made. But the converse of these propositions is not necessarily true, as stated in paragraph 31 of caution was, however, sounded in paragraph 32 by stating that there was no presumption that the wealthy and the mighty will submit themselves to trial and that the humble & the poor will run away from the course justice.

5. Before passing any order of anticipatory bail, hearing of Public Prosecutor would be necessary which was first stated in Balchand -V- State of M.P., AIR 1977 SC 366, which view was endorsed by the Constitutional Bench in Gurbaksh Singh in paragraph 38. Wherein it was, however, that an order of bail under this section can be passed without notice of the public prosecutor also; but then, notice must be issued forthwith and the question of bail should be re-examined in the light of the contentions advanced by the Public prosecutor. This apart, the interlocutory order too must conform to the requirements of section and suitable conditions must be imposed even at that state.

6. It may not, however, be understood that if a Public prosecutor states that he has no objection to the grant of anticipatory bail, an order can be passed without assigning any reason and considering merits as stated in Bhagirathi Padhan-V-Pachila Rout, 1985 (II) CrI.

7. The question as to whether perusal of case diary is necessary before passing a final order, the same will depend upon facts and circumstances of each case. This is so for the reason that, according to Gurbaksh's Case, even filing of an F.I.R. is not a condition prerequisite to the exercise of power under section 438, as eminence of a likely arrest founded on a reasonable belief can be shown to exist even if F.I.R. is not yet filed, in which case also prayer for anticipatory bail may be made, as stated under point 'thirdly of paragraph 35. But then, as opportunity has to be given to the Public Prosecutor to hear him, it is apparent that he must be allowed to produce entire materials on the record, and so, if the Public Prosecutor would like perusal of the case diary before passing of the final order, that has to be done. This apart, it is apparent that the courts would examine the materials available with the police before disposal of the case where approach is after filing of the F.I.R.

8. Reference may also be made to Pokar Ram–V-State of Rajasthan, AIR 1985 SC 969, in which the apex Court even went to the extent of cancelling the order of anticipatory bail granted by the Sessions Judge despite upholding of the same by the High Court on the ground that the accused would be readily available during trial and there was no likelihood of tampering with the prosecution witnesses. The apex Court regarded these considerations as irrelevant for the purpose of grant of anticipatory bail, because of what has been stated in Gurbaksh Singh’s case. It was also observed that as anticipatory bail to some extent intrudes in the sphere of investigation of crime, the court must be cautious and circumspect in exercising this power. As to grant of anticipatory bail to a person accused of committing murder, it was stated that some very compelling circumstances must be made out.

9. Further, as stated in letter No. 2978 dated 3rd march, 1987 of this Court, the order to be passed under section 438 should be that the applicant in the event of his arrest shall be released on bail on such conditions as may be imposed. An order prohibiting arrest even up to a particular time cannot be made.

No. 2912 Dated. 22.03.1993

From

Shri B.N. Pattanaik, LL.M.,
Registrar (Administration)

To

The District & Sessions Judge,
Sambalpur.

Sub: Trial of cases under the prevention of food Adulteration Act.

Sir,

I am directed to refer to the discussions held by Hon'ble the Chief Justice with the Judicial Officers during His Lordship's visit to Sambalpur and to say that some Judicial officers entertained a doubt as to what procedure is to be adopted in view of the fact that u/s. 16 of the prevention of food Adulteration Act the punishment prescribed for some offences is more than that of a case triable under summary procedure and the law under the prevention of food Adulteration Act requires all cases to be tried summarily.

The Hon'ble court is pleased to observe that the second proviso to section 16-A of the Prevention of food Adulteration Act takes care of the situation.

I am, therefore, to request that the aforesaid position of law may be brought to the notice of all the Judicial Officer of your Judgeship for their information and guidance.

Yours faithfully,
B.N. PATNAIK
REGISTRAR (ADMINISTRATION)

GENERAL LETTER NO. 1 OF 1993 (CRIMINAL)/ Dated 24.03.1993

From

Shri P.C. Patro, LL.B.
Registrar (Judicial)

To

All the District & Sessions Judges of the state.

Sub:- Modification of the instruction issued in General letter No. 1 of 1986 (Criminal).

Sir,

I am directed to refer to Court's letter No. 1 of 1986 (Criminal) and to say that instructions were issued therein that the criminal courts should release the accused persons involved in minor, bailable offences, excepting the offences involving moral turpitude on their executing personal recognizance bonds, provided that the maximum prescribed term of sentence for the offence is not more than 2 years.

It has come to the notice of the Court in the last District Judges' Conference that the words "minor, bailable Offence" appearing in third line, second paragraph of General Letter No. 1 of 1986 (Criminal) creates ambiguity at the time of interpretation.

The Court after careful consideration of the matter have been pleased to observe that the aforesaid General Letter is really meant to deal with the question regarding minor offences by which is meant offences punishable up to 2 years. Accordingly they direct that the word 'bailable' (along with the comma preceding it) appearing in the 3rd line, 2nd paragraph of General Letter should be omitted, for release of such accused on P.R. bond.

I am, therefore, to request that the above modification to Court's General Letter No. 1 of 1986 (Criminal) may be brought to the notice of all Judicial Magistrates under your control for the information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 3109(13)/Dated 26.03.1993

From

Shri B.N. Pattanaik,
Registrar (Administration)

To

The District & Sessions Judge,.....(All)

Sir,

While inviting your attention to the Court's letter No. 4006/ XLIX- D- 13/35 dated 26.4.85, I am directed to say that instances have come to the notice of the Court that instructions imparted therein are not being followed by the courts while summoning the Judicial Officers and the Investigating Officers, as the case may be, to depose as witnesses in more cases than one at a time.

I am, therefore, to request you that the Chief Judicial Magistrate(s) of your Judgeship should be directed to implement the instructions given in the aforesaid letter without any deviation henceforth. Any lapse on their part may be seriously viewed by the Court.

Yours faithfully,
B.N. PATTANAİK
REGISTRAR (ADMINISTRATION)

No. 3110(13)/ dated 26.03.1993

From

Shri B.N. Pattanaik,
Registrar (Administration)

To

The District & Sessions Judge,.....(All)

Sub: Desirability of summoning officers of various departments as witnesses to give evidence in more cases than one at a time.

Sir,

I am directed to say that the Court desire that the presiding Officers of all the Courts shall as far as practicable post cases for hearing on one day in which any officer of the Forest Department, Excise Department, Labour Department or Medical Officer is required to be examined as a witness in more cases than one.

The Court are pleased to observe that it shall be the responsibility of the Chief Judicial Magistrates to implement the aforesaid direction.

- (1) By instructing the Presiding Officers of the trial courts to so plan their diaries as to enable the aforesaid officers attending their courts as witnesses to give evidence in as many cases as possible on one day; and/or
- (2) By transferring, as far as practicable, all such cases to one court at the Station so that issue of summons will be more or less regulated. The Officers who are summoned as witnesses in several cases at one station should also intimate the fact of their attendance to the court on one or consecutive dates through their respective heads of office.

I am, accordingly, to request that the above instructions may be brought to the notice of all the Subordinate Courts for information and guidance.

Yours faithfully,
B.N. PATTANAİK
REGISTRAR (ADMINISTRATION)

No. 3378(15) /Dated 06.04.1993

From

Shri B.N. Pattanaik, LL.M.,
Registrar (Administration)

To

The Principal Chief conservator of Forests, Bhubaneswar.

The Inspector General of Registration-cum-Excise Commissioner, Cuttack

The Labour Commissioner, Orissa, Bhubaneswar.

The Secretary, Government of Orissa, Agriculture Department/Commerce and Transport Department/ Energy Department/ Food and Civil Supplies Department/ Fisheries and Animal Resources Department/ Forest and Environment Department/ Health and Family welfare Department/ Home Department/ Housing and Urban Development Department/ Industries Department/ Labour and Employment Department/ Steel and Mines Department, Bhubaneswar.

Sub:- Desirability of filing of sufficient number of Prosecution Reports/Complaints and Processes like Summons to the accused and the witnesses along with the Prosecution Reports.

Sir,

I am directed to say that it is noticed that sufficient number of prosecution Reports/Complaints and processes like summons to the accused and the witnesses are not being filed by the prosecuting Agencies of different Departments of Government at the time of presenting Prosecution Reports/ Complaints in the court for which the staff of the court are facing difficulties to cope with the work.

The Court after careful consideration of the matter have been pleased to observe that Prosecuting Agencies of different Departments of Government including the Authorities of the Public Sector Undertakings shall file sufficient number of copies of Prosecution Reports/Complaints and summons to the accused,

duly filled up leaving the column relating to the date of appearance of the accused blank, to be filled up by the court and summons to the witnesses leaving the column blank relating to the date of appearance of witnesses to be filled up by the Court at the time of signing the same, corresponding to the number of accused persons and witnesses as the case may be, while presenting Prosecution Reports/ Complaints in the court.

I am, therefore, to request that necessary instruction be issued to the Officers of your Department to file sufficient number of copies of Prosecution Reports/Complaints, summons to the witnesses at the time of presenting Prosecution Reports/Complaints Court.

Yours faithfully

B.N. PATTANAİK

REGISTRAR (ADMINISTRATION)

No. 3619/ Dated 14.04.1993

From

Shri B.N. Pattanaik, LL.M.,
Registrar (Administration)

To

The District & Sessions Judge,.....(all)

Sub:- Filing of the copies of Prosecution Reports/Complaints, Summons to the accused and witnesses by the prosecuting Agencies in Court.

Sir,

I am directed to say that the question of filing sufficient number of prosecution Report/ Complaints, Summons to be accused and witnesses along with Prosecution Report/ Complaint by different prosecuting Agencies was under examination of the Court.

The court after careful consideration of the matter have been pleased to issue instructions in letter No. 3378 (15) dated 6.4.93 to the various Departments of Government to file sufficient number of copies of prosecution/Reports/Complaints and summons to the accused and witnesses duly filled up leaving the column relating to the date of appearance of the accused and witnesses blank, to be filled up by the Court at the time of signing the same, corresponding to the number of accused persons and the witnesses as the case may be, while presenting a prosecution report/ Complaint in the court.

The Court further observe that the Subordinate Courts, who are empowered to take cognizance of offences such as Sub-Divisional Judicial Magistrates and Judicial Magistrates of the First Class posted at the single Magistrates stations, may be instructed to see that while receiving the prosecution Reports/ Complaints filed by the Public Servants of different Departments of the government including the Authorities of the Public Sector Undertakings the aforesaid instruction is complied with, failing which they should give appropriate direction to the concerned public Servants in this regard.

I am, therefore, to request that necessary instructions may be issued to all the Judicial Officers of your Judgeship for information and guidance.

Yours faithfully
B.N. PATTANAİK
REGISTRAR (ADMINISTRATION)

No. 3639/ Dated 15.04.1993

From

Shri B.N. Pattanaik, LL.M.,
Registrar (Administration)

To

All the Sessions Judges of the State.

Sub: Question of filing fresh bail bond by the surety in the Court of Session after commitment, if the accused had already been released on bail in the lower court.

Sir,

I am directed to say that a question has been raised as to whether a fresh bail bond is required to be filed by the surety in the Court of Session after commitment, if the accused had already been released on bail in the lower court.

The Court, on careful consideration, observe that in view of the decision of the Hon'ble Supreme Court (Free Legal Aid Committee-v-State of Bihar) reported in A.I.R.1982, Supreme Court, 1463, Rule 72 (A) of the General Rules and Circular Orders(Criminal), Volume-I (1977 Edition) and the bail bond Form No. (M) 83 and Form No. (M) 83-A no accused is required to file a fresh bail bond in the court of Session after being committed to that court by a court of the Magistrate if the accused has furnished a bail bond in Form No. (M) 83.

The above instruction may be followed and brought to the notice of the Subordinate Courts of your Judgeship for their information.

Yours faithfully,
B.N. PATTANAIAK
REGISTRAR (ADMINISTRATION)

No. 3816/ Dated 21.04.1993

From

Shri B.N. Pattanaik, LL.M.,
Registrar (Administration)

To

All the District and Sessions Judges of the State.

Sub: Imposition of inadequate sentence.

Sir,

I am directed to say that it has come to the notice of the Court that most of the Subordinate Courts are awarding inadequate sentence against the persons convicted under various provisions of Labour Laws, Excise Act and Forest Act.

In this connection, it may be stated that the Court have issued necessary instructions to all the Subordinate Courts in their General Letter No.6 of 1967(Criminal), Circular Letter No. 3845 dated 30.10.50 No. 712 dated 31.1.1967 and No. 2376 dated 5.3.83 not to pass inadequate sentence in cases under prevention of food Adulteration Act, Motor Vehicles Cases and Labour Laws. The same would apply to offences under Excise and Forest acts.

The Court after careful consideration of the matter have been pleased to invite your attention to the Court's earlier instructions issued in the letters referred to above and direct that the same may be brought to the notice of all concerned. Further, the Chief Judicial Magistrate while inspecting Magisterial courts and the Sessions Judge while inspecting the Courts of Assistant Sessions Judges should verify such records ending in conviction of the accused and if in their opinion inadequate sentences have been passed, the names of such Magistrates or Assistant Sessions Judges as the case may be should be reported to the Hon'ble Court with their comments.

Yours faithfully,
B.N. PATTANAİK
REGISTRAR (ADMINISTRATION)

No. 4214(13)/Dated 06.05.1993

From

Shri S.K. Pradhan
Special Officer (Special Cell)

To

The District and Sessions Judge,.....(all)

Sub: Implementation of Supreme court Judgment in writ petition (CRL) No. 1171
of 1982.

Sir,

In continuation of Court's letter No. 8094 (13) dated 8.9.92, I am directed to
enclose a copy of the Government of India, Ministry of Welfare, (Central Adoption
Resource Agency), New Delhi letter No. 17-1/93-CARA dated 15.2.93 on the
subject noted above for favour of your information and guidance and for
communication to the subordinate Courts for their information and guidance.

Yours faithfully
S.K. PRADHAN
SPECIAL OFFICER (SPECIAL CELL)

No. 4963/ Dated 24.05.1993

From

Shri B.N. Pattanaik, LL.M.,
Registrar (Administration)

To

The District and Sessions Judges of the State.....(all)

Sub: Whether under Narcotic Drugs and Psychotropic Substances Act pending on the file of the magistrate can be placed in the dormant file by the same Magistrate or by the Sessions Judge.

Sir,

I am directed to say that a question has been raised as to whether cases under the Narcotic drugs and psychotropic substances Act pending on the file of the Magistrate can be placed in the dormant file by the Magistrate or by the Sessions Judge, who functions as the Special Court under the said Act.

The Court, after careful consideration have been pleased to direct that the Sessions Judge exercising the powers of a special Judge under the Narcotic drugs and Psychotropic Substances Act alone can consign the record to the dormant file in terms of Rule 326 of the General Rules and Circular Orders(Criminal), Volume-I.

I am, therefore, to request that the aforesaid instruction may be brought to the notice of all Judicial Officers under your jurisdiction for their information and guidance.

Yours faithfully,
B.N. PATTANAİK
REGISTRAR (ADMINISTRATION)

No. 5358(13)/ dated 26.06.1993

From

Shri B.N. Pattanaik, LL.M.,
Registrar (Administration)

To

The District and Sessions Judge,.....(all)

Sub:- Desirability of summoning the Police officers as witnesses to give evidence in more than one at a time.

Sir,

In inviting a reference to court's letter No. 4006 dated 26.4.85 and letter No. 3109(13) dated 26.3.93 on the above subject, I am to forward herewith a copy of instruction issued by the Additional D.G and I.G of Police (C), Orissa, Cuttack to all the Establishments of police department in their letter No. 13891 dated 5.6.93 (Copy enclosed) for information and guidance and for communication to the subordinate courts for their information and necessary action.

Yours faithfully
B.N. PATTANAİK
REGISTRAR (ADMINISTRATION)

Copy of letter No. 13891/Law-CB. Dated 5.6.93 of the Additional D.G. and I.G. of police, (C) Orissa, Cuttack addressed to all Heads of Police Establishment of Orissa on the subject of "court attendance by Police officers on receipt of summons"

Necessary instructions have been issued by the D.G.P. and I.G.P. Orissa in his D.O. letter No. 4449/CB-Law dated 18.2.93 regarding Court attendance by police Officers on receipt of summons.

The Hon'ble High Court have advised that the Police Officers, particularly the Investigating Officers who are summoned as witnesses in several cases at one station, to appear on different dates, should intimate facts of their attendance to the concerned Courts, through their Superintendent of Police, so that necessary action can be taken for transferring all such cases to one court to be posted on one or two consecutive dates. A copy of the letter No. 3376/XLIX-D-16/93 dated 5.4.93 received from the Registrar (Administration) of the Hon'ble High Court of Orissa enclosed for your ready reference.

The Subordinate officers may be advised to scrupulously follow the instructions of the Hon'ble Court and the D.G.P.

Receipt of this letter may please be acknowledged.

No. 7007(20)/ Dated 19.07.1993

From

Shri B.N. Pattanaik, LL.M.,
Registrar (Administration),

To

The District and Sessions Judge,.....(all)
The Chief Judicial Magistrate,.....(all)

Sub: Consideration of statistics received regarding disposal of cases of different categories, outturn of Officers and adjournment of Sessions cases etc. (Item No.1 of the proceedings of Districts Judges' Conference, 1992 held on 5th February, 1993).

Sir,

I am directed to refer to Item No.1 of the proceedings of the last District Judges' Conference, 1992 held on 5th February, 1993 on the above subject and to communicate the following observation made in the conference for your information and onward communication to the Officers under your jurisdiction.

i. It was felt that the low outturn of large number of officers was due to ineffective control of the district Judges and Chief Judicial Magistrates over the Officers working under them.

ii. It was resolved that the periodical Inspection made by the District Judges and the Chief Judicial Magistrates should not be mere formalities but result oriented.

iii. It was noticed with concern that despite repeated instructions on the contrary, some officers exercising Sessions powers were not alert to the urgency involved in the trial and disposal of Sessions Cases and were still granting liberal adjournments on flimsy grounds.

iv. It was felt that the Officers Have a duty not only to reach the prescribed outturn but also to dispose of the year old pending cases irrespective of the prescribed yardstick.

Yours faithfully,
B.N. PATTANAİK
REGISTRAR (ADMINISTRATION)

137

No. 8229(15)/ Dated 01.09.1993

From

Shri J.M. Patnaik,
Deputy Registrar (Admn. & Prot)

To

The District Judge,.....(all)
Special Judge (Vig), Bhubaneswar
Special Judge (Vig.) Sambalpur

Sir,

I am directed to enclose herewith a copy of Judgment dated 20.8.93 in the suo motu Criminal Misc. Case No. 877,878 and 880 to 884 of 1993 for your information.

Yours faithfully,
J.M. PATNAIK
DEPUTY REGISTRAR (A & P)

IN THE HIGH COURT OF ORISSA

CrI. Misc. Case Nos. 877, 878 and 880-884 of 1993 sou motu

Decided on 20th August, 1993

B. L. HANSARIA, C. J. AND R. K. PATRA, J.

In the matter of suo motu proceedings arising out of orders dated 8-6-1992, 21-4-1992, 2-4-1992, 27-2-1992, 27-2-1992, 26-2-1992 and 26-2-1992 passed by the Sessions Judge, Balasore in Criminal Misc. Case Nos. 188, 121,90, 81, 80, 58 and 57 of 1992, respectively.

State (in all) ... Petitioner

V.

Fagu Mallik (SMCMC 877/93)
Ajay Kumar Beg (SMCMC 878/93)
Khagendra Jena (SMCMC 880/93)
Ganesh Prasad Nayak (SMCMC 881/93)
Narendra Samantaray and another (SMCMC 882/93)
Jhadeswar Mohanty (SMCMC 883/93)
Jogendra Mohanty and another (SMCMC 884/93)

Opp. Parties

A. NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985-Sec. 36-A (1)(a)-Even beyond ninety days the Magistrate has power to remand-It is not limited to 15 days.

(Para-3)

Referred to:

- (i) OJC No. 4658 of 1993 decided on 12-8-1990: Bimbadhar v. State
- (ii) (1992) 5 OCR 555: 1992 (II) OLR 395: Banka v. State

B. NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985-Sec. 36-A-Sessions Judge would have all powers of Special Court, till constitution of Special Court. (Para-4)

Referred to:

(iii) (1992) 5 OCR 555: 1992 (II) OLR 395: Banka v. State

(iv) 1992 (I) Crimes 1038 P. R. Muthu v. State

(v) 1991 (2) KLT 323: State v. Balakrishnan

Result: Proceedings closed.

For Petitioner : Shri S. K. Das, Govt. Advocate

For Opp. Parties : None.

ORDER

B. L. HANSARIA, C.J.- It having come to the notice of this Court that persons accused of offences under the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter called the 'Act', have been released on bail on the ground that such accused cannot be remanded to custody beyond a period of fifteen days by a Judicial Magistrate and a Sessions Judge cannot exercise the power of remand inasmuch as he can only try an offence till Special Court is constituted as stated in Sec. 36-D of the Act, *suo motu* cognizance was taken to examine the legality of the aforesaid orders of release on bail. As the Act has been enacted to take care of the growing menace of drug trafficking and drug addiction, a need was felt to examine whether the mandatory provisions finding place in Sec. 37 of the Act stating as to when a person accused of offences under the Act can be released on bail can become inoperative due to aforesaid reason.

2. The ground finding place in these orders having, however, raised an important question, it was desired that these cases should be placed before a Bench of the Court to lay down the law in this regard authoritatively.

3. In so far as the power of the Magistrate is concerned, of which mention has been made in Clause (b) of Sub sec. (1) of Sec. 36-A of the Act, the same has already been decided by a Bench of this Court in OJC No. 4668 of 1993 (Bimbadhar Behera v. State of Orissa) judgment in which was rendered on 12-8-1993, according to which the Magistrate has power to remand even beyond ninety days, not to speak of fifteen days, as is the view expressed in the impugned orders. This was so stated by referring to what has been laid down by a Full Bench of this Court in *Banka v. State*, 1992 (II) OLR 395.

4. As to the power of Sessions Judge, Shri Das, learned Government Advocate, submits that this question as well stands answered by what has been observed in *Banka's* case (*supra*). Our attention has been invited to what has been stated by two learned majority Judges at pages 413, 418, 419 and 421 of the report, a combined reading of which would show that the power of the Sessions Judge, till constitution of Special Court is not confined merely to 'try' the case, but he would have all the powers conferred on the Special Court by the Act. This was the view expressed in *P.R. Muthu v. State*, 1992 (1) Crimes 1038, by a learned Single Judge of the Madras High Court: so also in *State of Kerala v. Balakrishnan*, 1991 (2) KLT 323, which have been taken note of and approved by the Full Bench. In *Balakrishnan's* case, it has been clearly stated that the Court of Session by virtue of the provisions contained in Sec.36-D would be competent to exercise the power under Clauses (c) and (d) of Sub-sec.(1) of Sec.36-A of the Act, as if it is the Special Court constituted under Sec.36 of the Act.

5. It would be opposite to refer what was held in *Muthu's* case in this regard in paragraph 61, the relevant portions of which reads as below:

"(1) The initial remand cannot at all be made for a period beyond fifteen days in the whole, where such a Magistrate in a Judicial Magistrate and seven days in the whole where such a Magistrate is an Executive Magistrate;

(2) If such person is forwarded to such Magistrate, upon or at any time before the expiry of the period of detention authorised by him and if the Magistrate feels that the detention of such person is unnecessary, he shall order such person

to be forwarded to the Special Court having jurisdiction, if constituted; or otherwise to the Court of Session, until the constitution of a Special Court:

(3) A Court of Session, for all, practical purposes, would be placed on par with the Special Court having all the powers and functions of such a Court:

6. As the judgment of the Full Bench was not available by the time the impugned orders were passed, we have not felt inclined to set aside those orders; more so, because more than one year has since elapsed. All the Sessions Judges of the State would, however, while dealing with such cases, bear in mind what has been stated in this order.

7. The proceedings are, therefore, closed with the aforesaid observations. Let a copy of this order be sent by the Registry to all the Sessions Judges.

R. K. PATRA, J.I agree.

Sd/- B.L. Hansaria

Chief Justice

Sd/- R. K. Patra

Judge

No. 8455/ dated 10.09.1993

From

Shri P.C. Patro, LL.B.
Registrar (Judicial)

To

All the District & Session Judges of the state.

Sub: Desirability of taking prompt action for realization of fine.

(Item No. 41 of the proceedings of the District Judges' Conference, 1992 held on 5th and 6th February, 1993)

Sir,

I am directed to say that the Court are pleased to concur with the resolution adopted under item No. 41 of the proceedings of the District Judges' Conference, 1992 held on 5th and 6th February, 1993 and direct that Subordinate Courts should take prompt action for realization of the fine amount.

I am, therefore, to request that the above instruction may be brought to the notice of all Subordinate Courts for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 8487(26)/ Dated 13.09.1993

From

Shri B.N. Pattnaik, LL.M.,
Registrar (Administration)

To

The District & Sessions Judge.....(all)

The Chief Judicial Magistrate.....(all)

Sub: Holding of monthly meetings of Senior Officers to find out ways and means and to solve various problems for expeditious disposal of Criminal cases.

Sir,

I am directed to say that in order to find out ways and means to solve the problems connected with disposal of cases, it has been decided by the Government in the Home Department communicated to the Court by their letter No. 61503 dated 21.10.92 that a monthly meeting of District Magistrate, District Judge, Superintendent of Police and public prosecutor will be held every month in the office of the Sessions Judge and District Magistrate alternately. Delay in disposal of cases particularly year old cases, causes low rate of conviction, ways and means to step up disposal of cases, rate of conviction, lacunae in prosecution and investigation, delay in service of summons/warrants, grant of bail to the hardened criminals and withdrawal of decade old cases etc. are some of the items which will be discussed in the meeting.

Further, I am to say the District Judge having jurisdiction over the newly created Districts should attend the monthly meetings in the headquarters of the new Districts, in the office room of the District Magistrate in one month and at a place in the new Districts to be selected by the district Judge in the next month. The District Judge should go on tour to the newly created Districts to attend such meetings.

The District Judge and District Magistrate concerned should decide the venue of the meetings according to their convenience.

Yours faithfully,
B.N. PATTNAIK
REGISTRAR (ADMINISTRATION)

No. 9235/ Dated 04.10.1993

From

The Registrar (Judicial)

To

All the District & Session Judges of the state.

Sub: Assigning separate numbers to split up cases in the Registrar (R)-1 & (R)-3.

Sir,

I am directed to say that the question of assigning separate numbers to split up cases and noting the same in the Register in form (R)-1 and (R)-3 was the subject matter of discussion in the District Judges Conference, 1992 under item No. 37 of the agenda. The District Judge, Dhenkanal had suggested that a by number should be assigned to each split up record by adding letter A, B & C etc. to the original case in form No. (R)-1 and this number should be written below the Original entry in Register (R)-1 in red ink and a new trial number should also be assigned to the split up records and the same be noted below the last entry of the trial Register (R)-3 on the same day of splitting up the case record. The trial number should be entered in the Register for pending split up records against the concerned entry.

The proposal of the District Judges was unanimously accepted in the conference.

The Court, after careful consideration of the matter, have been pleased to concur with the aforesaid decision and direct that split up cases shall be entered in the Register (R) 1 and (R)3 as indicated above by all Criminal Courts.

I am accordingly to request that the above instruction be followed by all Criminal courts and brought to the notice of all Criminal courts in your Judgeship for information and guidance.

Yours faithfully,
Sd/-
REGISTRAR (JUDICIAL)

No. 9714/ Dated 02.11.1993

From

Shri P.C. Patro, LL.B.
Registrar (Judicial)

To

All the District & Session Judges of the state.

Subj: Modification of the instruction issued in General Letter No. 2 of 1984 (criminal) regarding marking of exhibits in Criminal cases.

Sir,

I am directed to refer to Court's General Letter No. 2 of 1984(Criminal) regarding marking of exhibits in criminal Cases wherein a specimen form was prescribed, but the date of production of documents in the Court does not find place in it, for this reason, the divergent practice is being followed by the Subordinate Courts in marking in the exhibits in Criminal Cases. The question of modification of G.L. No. 2 of 1984(criminal) indicating therein the date of production of document, was discussed in the conference of the Dist. Judges, 1992 under item No. 39 and it was resolved that suitable instructions be issued from the court clarifying the anomaly.

The court, after careful consideration of the matter, have been pleased to observe that the specimen form prescribed in G.L. No. 2/1984(criminal) should be amended by providing for "date of production of document" to maintain uniformity in the matter.

I am, therefore, to request that the specimen form prescribed in G.L.2/84(criminal) should be modified as indicated below and the same should be strictly followed and communicated to all the Criminal Courts under your control for their information and guidance.

Case No.-----of 20-----/
Marked as Exhibit-----on-----/
Date of production of the document
In the Court-----
For/by Prosecution/Defence/Court-----
Session Judge/Magistrate

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 9918/ dated 09.11.1993

From

Shri P.C. Patro, LL.B.
Registrar (Judicial)

To

The District & Session Judge of the state.....(all)

Sub: Obtaining the signature of the Court's Sub-Inspector in the Register of processes issued to each police stations in Form No. (R) 10

Sir,

I am directed to refer to Item No. 32 of the proceedings of the District Judges' Conference, 1992 held on 5th and 6th February, 1993 and to say that in the Conference the proposal for obtaining the signature of the Court's Sub-Inspector in the Register of processes issued to each police stations in Form No. (R) 10 in token of receipt of the warrant and processes was accepted. It was also decided that necessary instructions incorporating the said proposal may be issued.

The Court concur with the said decisions and observe that the signature of the court's Sub-Inspector should be obtained in the remarks column of the Register of processes issued to each police stations in Form No. (R) 10 in token of acknowledgement of receipt of the warrant and processes issued to different police Stations.

I am accordingly to request that the above instruction of the court may be strictly followed by all Criminal courts of the State.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 10192(13)/ Dated 16.11.1993

From

Shri P.C. Patro, LLB,
Registrar (Judicial)

To

The District & Session Judge,(all)

Sub: Non-production of the Under Trial Prisoners in the court on the due date.

Sir,

It has come to the notice of the Court that the Under Trial prisoners of outlying station where there is no Jail facilities are not being produced in the court regularly on the date fixed for trial. For this reason, the cases involving Under Trial prisoners are being delayed. In order to overcome the situation, the matter was under examination of the Court. It is reported by the District and Sessions Judges that the Under Trial prisoners are not being produced regularly in the court from the neighboring Jails due to want of escort party, Court Van, diesel etc.

The court after careful consideration have been pleased to direct that in case the Under Trial prisoners are not produced on the date fixed without application for condonation for sufficient reason, the Judicial Officer of the concerned courts should move this Court through the Sessions Judge for taking appropriate steps.

I am, therefore, to request that the above instruction should strictly be followed by all courts within your jurisdiction.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 11271(13)/ Dated 24.12.1993

From

Shri B.N. Pattnaik, LL.M.,
Registrar (Administration)

To

The District and Sessions Judge,(All)

Sub: Writing of processes as per provision contained in sections 230, 242(2) and 254(2) of the Criminal Procedure Code.

Sir,

It has come to the notice of the court that uniform practice as to writing of processes as per provision contained in Sections 230,242(2) and 254(2) of the Criminal Procedure Code is being followed in all Judgeships of the State.

I am directed to refer Court's No. 370 dated 31.1.75 and request that all the Judicial Officers under your jurisdiction be impressed upon to follow the instruction issued in this letter hence forth.

Yours faithfully,
B.N. PATTNAIK
REGISTRAR (ADMINISTRATION)

No. 1165/ Dated 18.02.1994

From

Shri P.C. Patro.
Registrar (Judicial),

To

All the District and Sessions Judges of the State.

Sub- Desirability of transferring the registers along with the case records when the Magistrate is transferred from a station and no substitute is posted.

Sir,

I am directed to say that it has been brought to the notice of the Court that when a Magistrate is transferred from a station and no substitute is posted, the case records get transferred to other Magisterial courts but registers are not transferred. At times it becomes difficult to keep track with the case if the same needs recommitment or the like. The above matter was under the examination of the Court for some time past.

The Court, after careful consideration, have been pleased to direct that steps should be taken to transfer the registers when the Magistrate is transferred and no substitute is posted to the court of Sub-Divisional Judicial Magistrate of the station and for distribution of pending case records of the court amongst other Magistrates of the station and to maintain a new register in the court of the Sub-Divisional Judicial Magistrate containing particulars of the registers of the defunct court received, the date when the court became defunct and when the registers were consigned.

I am, therefore, to request that the above instructions may be brought to the notice of the courts subordinate to you for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 2079/ Dated 16.03.1994

From

Shri B.N. Patnaik, LL. M.,
Registrar (Administration)

To

All the District and Sessions Judges of the State.

Sub:- Question as to whether presence of the accused is to be insisted upon before the charge is framed and the provisions for representation by a lawyer may not be liberally invoked.

Sir,

I am directed to say that the question as to whether presence of the accused is to be insisted upon before the charge is framed and the provision for representation by a Lawyer may not be liberally invoked at that stage, was under consideration of the Court.

On careful consideration of the matter, the Court have been pleased to observe that discretionary powers vested under Section 317 of the Code of Criminal procedure may be exercised for dispensing with personal presence of accused at the time of framing of charge in appropriate cases and presence of the accused should be considered necessary when it is disclosed to the Court that he/she wants to plead guilty.

I am to request that the aforesaid decision of the Court may be brought to the notice of all the Sub ordinate Courts working under you for their information and guidance.

Yours faithfully,
B.N. PATNAIK
REGISTRAR (ADMINISTRATION)

152

No.3425/ Dated 05.05.1994

From

Shri P.C. Patro
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub- Expeditious disposal of pending cases relating to recovery of Bank dues.

Sir,

I am directed to forward herewith an extract of item No. 13 of the resolution passed in the Chief Justice Conference, 1993 on the subject noted above and to request that the instruction contained therein may be brought to the notice of all the Subordinate Judicial Officers working under you for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

Extracts of the resolution of chief Justices' Conference, 1993

Item No. 13 (c) Alternative Dispute resolutions techniques-Legal Aid programme, Lok Adalats etc:

Resolved that so far as the recovery of the dues of the Banks are concerned, all efforts be made by all the High Courts for expeditious disposal of the pending cases, and cases to be instituted hereinafter including taking steps for out-of -court settlement relating to such claims.

No.3625 / Dated 09.05.1994

From

Shri P.C. Patro,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub:- Expeditious disposal of cases under the prevention of Illicit Traffic in Narcotic Drugs and Psycho trophic Substances Act.

Sir,

I am directed to invite item No. 10 of the Proceedings of the Chief Justices Conference, 1993 on the above subject (Copy enclosed), wherein it was resolved that all the High Courts to take all necessary and appropriate steps for expeditious disposal of such cases.

The Court, after careful consideration have been pleased to direct that cases under the prevention of Narcotic Drugs & Psychotropic Substances Act should be disposed of expeditiously giving priority over other cases.

I am, therefore, to request that aforesaid instruction may be brought to the notice of all Judicial officers under your jurisdiction for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 5178(13)/ Dated 19.07.1994

From

Shri P.K. Patra,
Registrar (Inspection & Enquiry)

To

All the District and Sessions Judges of the State.

Sub:- Withdrawal of Court's Circular Letter No.7998(4) dated 12.9.89 authorising the Additional Chief Judicial Magistrates to inspect the Magisterial Court's situated at stations Like Cuttack, Puri, Berhampur, Bhubaneswar and Rourkela.

Sir,

I am directed to say that, in view of the re-organisation of the districts in the State, the Hon'ble Court, after careful consideration, have been pleased to withdraw Court's Circular Letter No. 7998(4) dated 12.9.89 authorising the Addl. Chief Judicial Magistrate, Cuttack, Puri, Berhampur, Bhubaneswar and Rourkela to inspect the Magisterial Courts situated at their respective stations and to direct that hence forth the Chief Judicial Magistrates shall inspect the Magisterial Courts situated within their respective districts.

I am, therefore, directed to request that the aforesaid decision of the Court may kindly be brought to the notice of all subordinate Courts within your Jurisdiction for their information and observance, forthwith.

Yours faithfully,
P.K. PATRA
REGISTRAR (I&E)

No. 5757/ Dated 10.08.1994

From

Shri P.C. Patro,
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: Disposal of cases of U.T.Ps. pending for two years or more.

Sir,

I am directed to refer to item No. 2 of the Proceedings of the District Judges conference held in 1993 and to say that on review of statements showing disposal of cases involving Under Trial Prisoners it was noticed that most of the cases have been disposed of within six months. However, there were quite a few cases of detention of U.T.Ps. for two years or more. It was resolved that the Sessions Judges and Chief Judicial Magistrates should pay their personal attention to this matter and verify the records periodically and see that these cases are disposed of as expeditiously as possible.

The Court are pleased to concur with the aforesaid decision and direct that the Sessions Judges and Chief Judicial Magistrates should verify the records of U.T.P.s periodically and see that those cases are disposed of as expeditiously as possible.

I am, therefore, to request that the above instruction may be brought to the notice of all the Subordinate Courts functioning in your Session Division for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No.5771/ dated 10.08.1994

From:

Shri P.C. Patro,
Registrar (Judicial),

To

All the District and Sessions Judges of the State.

Sub: Disposal of old pending suits and cases in the Subordinate Civil and Criminal Courts.

Sir,

I am directed to refer to Rules 99 and 100 at page 23 of the General Rules and Circular Orders (Civil), Volume-I which provide that all Officers should draw up a plan for disposal of old suits and cases for each quarter and try to dispose of old cases first and take up new cases only after the old cases have been disposed of unless they are prevented from doing so for unavoidable reasons to be recorded in writing. It is noticed that proper attention is not being bestowed to the disposal of old suits and cases. The necessity for expeditious disposal of old pending cases and suits has been impressed upon by the Court from time to time and reference may be made to the instruction contained in Court's Circular Letter No. 12047 dated 03.10.88 and Letter No. 152 dated 05.01.89. Despite such repeated instructions there has been inordinate delay in disposal of old pending cases, as is painfully observed by the Court.

I am, therefore, to request you to see that old pending suits and cases are disposed of at first. In case of default, the Court will take a serious view in the matter.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

No. 5866/ Dated 17.08 1994.

From,

Shri P.C.Patro
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: Discontinuance of practice of Submission of regional languages statement.

Sir,

I am directed to say that the question of discontinuance of submission of regional languages statement half yearly to the Court as discussed in the District Judges' Conference held in the year 1993 under item No.4 and 5 of the agenda. It was resolved that the present practice of submitting the regional language statement be discontinued as it serves no useful purpose.

The Court are pleased to concur with the aforesaid decision and direct that half-yearly statement showing use of regional languages in District and Subordinate Court should be discontinued herein after.

Yours faithfully,
P.C.PATRO
REGISTRAR (JUDICIAL)

No.6815/Dated 15.09.1994

From

Shri P.C. Patro
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub: Realisation of fine amount imposed by Special Courts in Special Act cases by the Chief Judicial Magistrates.

Sir,

I am directed to invite reference to the resolution adopted under Item No. 15 of the proceeding of the District Judge's Conference, 1993 and to say that the fine amounts imposed by the Special Courts in Special Act cases need be realised and dealt with the fine amounts as per provisions contained in Rule. 136 at page 35 of the G.R. and C.O. (Criminal) Volume-I (1977 Edition) by the Chief Judicial Magistrates.

I am, therefore, to request that the aforesaid instruction may kindly be communicated to the Chief Judicial Magistrates of your Judgeship for their information and guidance.

Yours faithfully,
P.C. PATRO
REGISTRAR (JUDICIAL)

160

No. 7213 Dated 28.09.1994

From

Shri P.C. Patro.
Registrar (Judicial)

To

All the District and Sessions Judges of the State.

Sub:- Procedure for taking of cognizance of offences in cases involving offence under the I.P.C. triable by the Court of Sessions combined with the offences under the S.C. and S.T. (Prevention on of Atrocities) Act, 1989.

Sir,

The question of prescribing separate procedure for taking cognizance of offences in cases involving offence under the I.P.C. triable by the Court of Sessions combined with the offences under the S.C. and S.T. (Prevention on of Atrocities) Act, 1989 was discussed in the Last District Judges Conference under item No. 9 of the Agenda.

It was resolved that separate procedure is not necessary in view of the decision reported in 1993 Criminal Law Journal-760 (Kerala) (In Re: Director General of Prosecution), wherein it has been observed that where a Special Court Specified in Section 14 receives a final report disclosing offences punishable under Section 3 of the Act as well as offence under Section 376 of the Penal Code, the accused can be tried for both in the same proceedings. For that no order of commitment by the Magistrate for offences punishable under Section 376 of the Penal Code is called for. Further the Special Court is to take cognizance of the offences under the Act and proceed with the trial as provided under the Code and Section 193 of the Cr. P.C. shall not apply to the Special Court.

I am, therefore, to request that the guidelines laid down in the aforesaid decision should be strictly followed in future and the same may be brought to the notice of all Judicial Magistrates under your Jurisdiction for their information and guidance.

Yours faithfully,

P.C. PATRO
REGISTRAR (JUDICIAL)

161

No. 7466(13)/ Dated 05.10.1994

From

Shri P.K. Mishra
Registrar (Administration)

To

The District & Sessions Judge.....(All),

Sub: Submission of best Judgments/ orders of each of the Subordinate Judicial Officers of the State.

Sir,

In inviting a reference to court's Letter no. 8302(13) dated 04.09.93 on the above subject, I am directed to say that on careful reconsideration of the matter, the Court are pleased to decide that the practice of sending an attested true copy of the best Judgment/order by each subordinate Officers, the District and Sessions Judges and the officers deputed to Tribunals and to the Government, to the Court each month be discontinued for the present.

I am, therefore, to request that this may be brought to the notice of all the Subordinate Judicial Officers working under you for their information and necessary action.

Yours faithfully
P.K. MISHRA
REGISTRAR (ADMINISTRATION)

No. 2501/Dated 29.03.1995

From

Shri S.K.Mohapatra
Registrar (Inspection and Enquiry)

To

All the District and Sessions Judges, of the State.

Sub Submission of Periodical statement relating to cases pending in the Juvenile Justice Court.

Sir,

I am directed to say that the proposal for submission of periodical statement relating to cases pending in the Juvenile Justice Courts was the subject matter of discussion under Item No. 3 of the District Judges' Conference, 1993. All the District and Sessions Judges were consulted in the matter of submission of such statement to the Court.

The Court on careful consideration of the matter have been pleased to direct that the Juvenile Court shall submit quarterly statement to the District and Sessions Judge who shall submit the same to the Court in the proforma enclosed hereto showing the disposal and pendency of cases under Juvenile Justice Act,1986.

I am, accordingly, to request that the above instruction be strictly followed in future.

Yours faithfully,
S.K.MOHAPATRA
REGISTRAR (I&E)

Statement showing the disposal and pendency of cases,

In the district of.....during the.....

Sl. No.	Name of the Juvenile Court.	Name and address of the Juvenile with age.	No. & year of the case with section of law.	Date of occurrence.	Date of appearance of the Juvenile.	Date of submission of charge sheet	Whether disposed of/pending	If pending present stage of the case.	Reasons for the delay in disposal of the cases.	Remarks
1	2	3	4	5	6	7	8	9	10	11

No. 4110(13) / Dated 26.05 1995

From

Shri P.K.Mishra
Registrar (Administration)

To

All the District & Sessions Judges of the State

Sub: Authorising all the Addl. Sessions Judges of the State to try and dispose of cases arising out of the N.D & P.S. Act, 1985 that would be made over to them by the Sessions Judges.

Sir,

I am directed to say that the Court are pleased to observe that since the expression "Session Judge" includes Addl. Sessions Judge in terms of Article 236 of the Constitution of India, all the Addl. Sessions Judges of the State be authorized to try and dispose of cases arising out of the Narcotic Drugs and Psychotropic Substances Act, 1985 as would be made over to them by the Sessions Judges.

I am, therefore, to request that the cases arising out of the N.D.P.S. Act,1985 may be made over to the respective Additional Sessions Judges for trial and disposal according to law.

Yours faithfully
P.K. MISHRA
REGISTRAR (ADMINISTRATION)

No. 4951(13)/ Dated 10.7.1995

From

Shri S.K.Mohapatra
Registrar (Inspection and Enquiry).

To

The All District & Sessions Judges of the State.

Sub: Withdrawal of Court's circular Letter No.1495 dtd.22.02.1993.

Sir,

I am directed to invite reference to Court's circular Letter No. 1495 dtd.22.02.93 where in instructions were issued that if the Judgment/Final order is not delivered or passed on the first date, fixed initially, the concerned presiding officer should record reason in the order sheet and also inform the High Court about the same on the next date through his District Judge, who shall forward the same to the Court with his comments and in case of the District Judges, their reports with reason be made available to the Court on the next date.

The proposal for withdrawal of the aforesaid circular was discussed in the District Judges Conference, 1994 under item No.13 and 14 and it was unanimously resolved to withdraw that circular. The Court, concur with the said resolution and accordingly direct that circular Letter No. 1495 dtd. 22.02.93 be treated as withdrawn.

This may be brought to the notice of all the subordinate Courts under you for guidance.

Yours faithfully
S.K.MOHAPATRA
REGISTRAR (I&E)

No. 5458(13)/ Dated 27.07.1995

From

Shri S.K.Mohapatra,
Registrar (Inspection and Enquiry)

To,

The District and Sessions Judge.....(all)

Sub: Maintenance of Trial Register in the Court of Session, Specially empowered for trial of cases, instituted under E.C. Act, S.C. & S.T. (Prevention of Atrocities) Act & N.D.P.S. Act.

Sir,

I am directed to refer to Courts Circular Letter No.7253 dated, 08.07.86 wherein instructions were issued that all the registers which the Judicial Magistrates are ordinarily required to maintain should be maintained in the Special Court.

The question of maintenance of trial Register in the Court of Sessions, Specially empowered for trial of cases instituted under E.C. Act, S.C. & S.T. (Prevention of Atrocities) Act & N.D.P.S. Act was discussed in the District Judges Conference 1994 under item No.3 and it was resolved that circular Letter No. 7253 dated 08.07.86 be examined for modifying it suitably.

The Court, after careful consideration have been pleased to concur with the aforesaid decision and observe that the Circular Letter No.7253 dated, 08.07.86 needs to be modified to the extent that all the registers, which Judicial Magistrates are ordinarily required to maintain, should be maintained in the Special Courts, which are entrusted with the trial of cases involving offences under the Essential Commodities Act, S.C. & S.T. (Prevention of Atrocities) Act & N.D.P.S. Act etc.

I am, accordingly, to request that the modified instructions of the Court be strictly followed hereafter.

Yours faithfully
S.K.MOHAPATRA
REGISTRAR (I & E)

No. 5558(13)/ Dated 03.08.1995

From,

Registrar (Inspection & Enquiry),
High Court of Orissa.

To,

The District and Sessions Judges.....(All)

Sub: Exercise of effective control over the officers exercising Sessions Power in their Judgeship.

Sir,

I am directed to refer to item no. I of the proceedings of the last Dist. Judges' conference, 1994 held on 17th & 18th February, 1995 and to state that the Court after careful consideration of the matter, have been pleased to concur with the aforesaid decision and direct that effective control be exercised over the officers exercising Sessions power in your Judgeship and verify from time to time if Sessions cases are being unnecessarily adjourned.

I am, accordingly, request you to take effective steps in the matter.

Yours faithfully,

Sd/-

REGISTRAR (I & E)

No.5869/ Dated 16.08.1995

From

Shri S.K.Mohapatra,
Registrar (Inspection and Enquiry).

To

All the District and Sessions Judges of the State.

Sub: Preservation of the records of N.D.P.S. Act cases disposed of by the Special Courts.

Sir,

I am directed to state that the proposal for prescribing the period of preservation of the records of N.D.P.S. Act cases, disposed of by the Special Courts came up for consideration in the District Judges Conference, 1994 under item No. 4 and it was resolved that the record be preserved till the lapsed jail warrant is received in cases in which the convict is sentenced to imprisonment for 20 years or more.

2. The Court, after careful consideration of the matter, have been pleased to concur with the aforesaid Resolution and direct that the record of N.D.P.S. Act cases, in which the convict is sentenced to undergo imprisonment for 20 years or more, shall be preserve till the lapsed jail warrants are received in the concerned courts.

3. I am, therefore, to request that the above instructions of the Court may kindly be strictly followed.

Yours faithfully,
S.K.MOHAPATRA
REGISTRAR (I & E)

No.7015 / Dated 12.10.1995

From

Shri S.K.Mohapatra,
Registrar (Inspection and Enquiry).

To,

All the District and Sessions Judges of the State.

Sub: Desirability of issuing instructions to the Chief Judicial Magistrates and Sub-Judicial Magistrates to issue Court Certificates to the Official witnesses when Circuit Court of Special Judge,(Vigilance) is cancelled.

Sir,

I am directed to say that the question of issuing Court Certificates to the Official witnesses by the Chief Judicial Magistrates and Sub- Divisional Judicial Magistrates, when the Circuit Court of the Special Judge (Vigilance) is cancelled, was discussed in the District Judges Conference, 1994 under item No. 12.

On careful consideration of the matter, the Court have been pleased to direct that the Registrar, Civil Courts should issue Court Certificates to the Official witnesses at the headquarters of the Judgeship and the Sub- Divisional Judicial Magistrates at the outlying stations in the event of cancellation of Circuit Court by the Special Judge (Vigilance).

I am therefore, to request that the aforesaid instructions of the Court be strictly followed in future.

Yours faithfully,
S.K.MOHAPATRA
REGISTRAR (I & E)

No.8024/ Dated 09.11.1995

From

Shri S.K.Mohapatra
Registrar (Inspection and Enquiry)

To

All the District and Sessions Judges of the State.

Sub- Maintenance of Register of Cases in which proceedings have been stayed in
Form No. (R)-41 by the Courts of Session.

Sir,

I am directed to say that it has come to the notice of the Court that no uniform practice regarding maintenance of the Register of Cases in which proceedings have been stayed in Form No.(R)-41 by all Criminal Courts, as prescribed in General Rules and Circular order (Criminal), Volume-II, is being followed in the different Judgeships of the State.

The question of maintenance of such Register in Form No.(R)-41 by the Courts of Session, was under active consideration of the Court. On careful consideration of the matter, the Court have been pleased to direct that since Court of Session is also a Criminal Court as provided in Section 6 of the Code of Criminal procedure, the Register in Form No.(R)-41 should also be maintained in the Courts of Session.

I am therefore, to request that above instructions may be strictly followed in future.

Yours faithfully,
S.K.MOHAPATRA
REGISTRAR (I & E)

GENERAL LETTER NO.1 OF 1996 / Dated 05.02.1996.
(CRIMINAL)

To

All the District and Sessions Judges of the State

Sub:- Setting off the period of detention during investigation under Section 428 of the Code of Criminal Procedure.

Sir,

I am directed to refer to General Letter No.3 of 1984 (Criminal) in which instructions were issued by the Court that the period of pre-conviction detention to be set off in respect of the U.T.Ps .involved in more than one case, should be calculated separately with reference to each case irrespective of the fact that there might have been common period of detention of the same accused in different cases. The proposal for modifying the G.L.No.3 of 1984 (Criminal) by issuing guide lines in the matter of setting off the period of detention even for few hours during investigation Under Section 428 Cr.P.C., was discussed in the District Judges' conference, 1992 Under item No.19 and the same was under consideration of the Court for some time past.

The Court, after careful consideration, have been pleased to accept the proposal and direct that any fraction of a day spent by the accused in detention during investigation, inquiry and trial should be taken as one day while calculating the set off period Under Section 428 Cr. P.C.

I am, therefore to request that the aforesaid instruction be strictly followed by all the Criminal Courts in future.

Yours faithfully
S.K. MOHAPATRA
REGISTRAR (I & E)

No. 1035/Dated.23.02.1996

From

Shri S.K.Mohapatra
Registrar (Inspection & Enquiry)

To

All the District and Session's Judge.....(All).

Sub: Sending of Exhibits in Cases under the N.D.P.S. Act to the F.S.L. for examination.

Sir,

I am directed to say that the question as to whether the Exhibits in cases under the N.D.P.S. Act should be sent to the Forensic Science Laboratory by the S.D.J.M. or Special Judge, when requested by the I.O. was under active consideration of the Court.

On careful consideration of the matter, the Court have been pleased to observe that on the request of investigating Officer the S.D.J.M/Judicial Magistrate concerned should forward the exhibits in cases under the N.D.P.S. Act to the F.S.L. for examination under the direction of the Sessions Judge so as to maintain uniformity.

I am, therefore, to request that the aforesaid instructions may be brought to the notice of all judicial officers under your control for their information & guidance.

Yours faithfully
S.K.MOHAPATRA
REGISTRAR (I & E)

No.3141/ Dated 13.05.1996

From

Shri S.K. Mohapatra,
Registrar (Inspection and Enquiry)

To

The District and Sessions Judges, Balasore.

Sub: -Clarification regarding the Form to be used by the M.A.C.T. for issuance of certificate to the Collector of the concerned district for execution of its award.

Sir

I am directed to refer to your letter No. 926 dt.25.2.94 on the above subject and to say that the question regarding the Form to be used by the Motor Accident claims Tribunal for issuance of certificate to the Collector of the concerned district for execution of its award was under consideration of the Court for some time past.

The Court, after careful consideration have been pleased to observe to move the Government in Commerce and Transport (Transport) Department to frame rules for providing prescribed Form as per section 176 (e) of the Motor vehicles Act, 1988 and the Government has been moved accordingly. Until such rules are framed, the present practice to issue certificate in Form No.2 under Appendix-IX of Orissa Public Demands Recovery Act be continued.

Yours faithfully
S.K.MOHAPATRA
REGISTRAR (I & E)

No. 3592(13)/ Dated 30.05.1996

From

Shri A. K. Parichha
Registrar (Judicial)

To

The District & Sessions Judge.....(All)

Sub: Judgment in Writ Petition (Civil) No. 1128/86 ("Common Cause" a registered society through its Director-Vrs- Union of India & Others).

Sir,

I am directed to enclose herewith a xerox copy of the judgment/order in Writ Petition (Civil) No. 1128/86 of Hon'ble Apex Court for your information and necessary compliance.

I am, further directed to request you to kindly bring it to the notice of all the Subordinate Criminal Courts under your control for their information and guidance and to send compliance report to the High Court within three months from the date of receipt of of the letter in terms of the directive of the Hon'ble Apex Court.

Yours faithfully
A.K.PARICHHA
REGISTRAR (JUDICIAL)

No. 3636(30)/ Dated 06.06.1996.

From

Shri P.K.Mishra
Registrar (Administration)

To

1. The District & Sessions Judge
 2. The Special Judge (Vigl.), Bhubaneswar/Sambalpur,
 3. The Chairman, Arbitration Tribunal, Bhubaneswar,
 4. The P.O., Cooperative Tribunal, Bhubaneswar
 5. The P.O., Industrial Tribunal, Bhubaneswar,
 6. The Member, Disciplinary Proceedings Tribunal, Bhubaneswar
 7. The Judge, Family Court, Cuttack/ Rourkela,
 8. The Chairman, Sales Tax Tribunal, Cuttack
 9. The State Transport Appellate Tribunal, Cuttack
 10. The Director of Public Prosecutions, Bhubaneswar
 11. The Commissioner of Hindu Religious Endowments, Bhubaneswar
 12. The P.O., State Education Tribunal, Bhubaneswar
 13. The II MACT(N.D.), Sambalpur
 14. The II MACT, (S.D.), Berhampur,
 15. The Member, Secretary, Legal Aid and Advice Board, Cuttack,
- Sub: Submission of statistics and agenda for the District Judges' Conference.

Sir,

The Court observes with displeasure that the statistics and agenda for the District Judges' Conference are being furnished to the Court by the District Judges and Presiding Officers of different Tribunals just on the eve of the Conference without giving reasonable time and opportunity to the Court to examine the matter in its prior prospective.

The Court after careful consideration of the matter and keeping in view the resolution passed under item no. 26(2) of the last District Judges' Conference held

on 20th and 21st December, 1995 have been pleased to direct that all the District Judges and Presiding Officers of different Tribunals should furnish their statistics and agenda if any, to the Court by 30th of October every year irrespective of the date of Conference of the District Judges.

I am therefore to request that the above instruction of the Court may strictly be followed in future and brought to the notice of the Chief Judicial Magistrates under your control for their information and guidance.

Yours faithfully
P.K.MISHRA
REGISTRAR (ADMINISTRATION)

NO.3945/ Dated 28.06.1996

From

Shri S.S Mishra,
Special Officer (Special Cell)

To

All the District & Sessions Judges of the State.

Sub:- Strict compliance of instructions issued under letter No. 11534 dtd.26.11.84 and letter No. 4695 dt 28.06.73 regarding Court's orders in cases involving U.T.Ps.

Sir,

It has been brought to the notice of the Court by the Commissioner-cum-Secretary to Government of Orissa, Home Department that one of the reasons for prolonged detention of U.T.Ps. in the Jails is due to non-compliance of Court's Orders in issuing summons to the prosecution witnesses for securing their attendance in cases involving U.T.Ps. The above matter was under the consideration of the Court for some time past.

The Court, after careful consideration, have been pleased to direct that the District & Sessions Judges should instruct the Judicial Magistrates working under their control to follow the instructions contained in the circular letter No.11534 dt.26.11.84 and circular letter No. 4695 dtd. 28.06.73 meticulously and disciplinary action be taken against the clerk concerned for non-compliance of Court's orders especially in cases involving U.T.Ps.

I am, therefore, directed to request you that the above instruction may be brought to the notice of all the Judicial officers under your control for information and guidance.

Yours faithfully

S.S MISHRA

SPECIAL OFFICER (SPECIAL CELL)

NO. 5348(13)/ Dated 03.07.1996

From

Shri S.K.Mohapatra
Registrar (Inspection and Enquiry)

To

The District and Sessions Judge

Sub: -Inclusion of Chief Judicial Magistrate in the monthly meeting of Senior Officers.

Sir,

I am directed to say that in Court's letter No.8487, dt.13.9.1993 instruction was issued for holding of monthly meetings of Senior Officers like District Judge, District Magistrate, Superintendent of police and public prosecutor to find out ways & means and to solve various problems for expeditious disposal of criminal cases.

In District Judge's Conference,1995 it was resolved that the Chief Judicial Magistrate being the appropriate authority to throw light over functioning of the Criminal Courts in the District, he should be included in the meeting of Senior Officers.

The Court after careful consideration have been pleased to concur with the aforesaid decision and direct that the Chief Judicial Magistrate should be included in the monthly meeting of Senior Officers as indicated above and the existing practice of holding monthly meetings between Chief Judicial Magistrate and Superintendent of police as per instruction issued in Court's Letter No. 497 dt.21.01.1975 should continue.

I am, therefore, to request that the above instructions of the Court may be brought to the notice of all Subordinate Court working under you for their information and guidance.

Yours faithfully
S.K.MOHAPATRA
REGISTRAR (I & E)

No. 5764(30)/ Dated 19.08.1996

From,

Shri S.K. Mohapatra
Registrar (Inspection & Enquiry)

To,

1. The District & Sessions Judge.
2. The Commissioner of Endowments, Orissa, Bhubaneswar.
3. The presiding Officer, Industrial Tribunal, Bhubaneswar/RKL
4. The Presiding Officer, Labour Court, Bhubaneswar/ Sambalpur/Koraput-Jeypore.
5. The Chairman, Sales Tax Tribunal, Cuttack.
6. The Presiding Officer, Education Tribunal, Bhubaneswar.
7. State Transport Appellate Tribunal -cum-Second Motor Accidents claims Tribunal, Cuttack.
8. The Member, Second Motor Accidents Claims Tribunal, Southern Division, Sambalpur.
9. The Member, Second Motor Accidents Claims Tribunal, Northern Division, Berhampur.
10. The First Addl. District Judge-cum-3rd Motor Accidents Claims Tribunal, Puri.
11. Second Addl. District Judge-cum-4th Motor Accidents Claims Tribunal, Puri.
12. Addl. District Judge-cum-5th Motor Accidents Claims Tribunal, Bhubaneswar.
13. Addl. District Judge-cum-3rd Motor Accidents Claims Tribunal, Balasore.
14. The Member, Disciplinary Proceedings Tribunal, Bhubaneswar.
15. The Special Judge (Vigilance), Bhubaneswar.
16. The Special Judge (Vigilance), Sambalpur.

Sub: Submission of statistics and agenda for District Judges' Conference.

Ref: Court's letter no. 3636 (30) Dtd. 06.06.1996

Sir,

In inviting a reference to the proceedings under item No. 26(2) of the conference of the District and Sessions judges, 1995 held on 20th and 21st December, 1995. I am directed to say that the Court, on careful consideration, have been pleased to direct that the statistics and agendas if any, for the District Judges Conference should be furnished to the Court by 30th October every year henceforth irrespective of the date of conference of the District Judges.

I am therefore, to request that the above instruction should be strictly followed in future.

Yours faithfully,
S.K. MOHAPATRA
REGISTRAR (I&E)

No.5939/Dated.26.08.1996

From

Shri P.K. Mishra
Registrar (Administration)

To

All the District & Sessions Judges of the State.

Sub: Proper maintenance of all registers maintained in the subordinate Civil and Criminal Courts.

Sir,

In partial modification of Court's circular letter No.2151 dated 4th April,1976 on the subject referred to above. I am directed to say that the Court on reconsideration of the matter have been pleased to direct that all the registers maintained in the subordinate civil and criminal courts should be bound ones, page-marked and the concerned Presiding Officer should append a certificate on the front page of the register as to the number of pages the register contains.

I am accordingly to request that the above instruction may be brought to the notice of the Courts subordinate to you for their information and guidance.

Yours faithfully
P.K. MISHRA
REGISTRAR (ADMINISTRATION)

No. 6350(13)/Dated 09.09.1996

From

Shri S.K. Mohapatra,
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge.....(All)

Sub: -Fixation of yardstick for disposal of cases under S.Cs and S.Ts (Prevention of Atrocities) Act, 1989 and N.D.P.S. Act, 1985 (Item No. 20 & 21 of D.J. Conference,1995

Sir,

I am directed to say that the Question of fixation of yardstick on the subject noted came up for discussion in the last District Judges' Conference,1995. It was unanimously resolved to fix two days yardstick for disposal of one case under N.D.P.S. Act and one day Yardstick in respect of each case under other special Acts.

The Court, after careful consideration of the matter, have been pleased to concur with the aforesaid decision and direct that the yardstick for disposal of cases under N.D.P.S. Act shall be two days for disposal of one case and one day in respect of each case under other Special Acts on contest.

I am accordingly to request that the above instructions may be brought to the notice of the Judicial Officers of your Judgeship for their information and guidance.

Yours faithfully
S.K.MOHAPATRA
REGISTRAR (I & E)

No.6447/ Dated 11.9.1996

From

Shri S.S.Mishra
Special Officer (Special Cell)

To

The District Sessions Judge.....(All)

Sub:- Forwarding the notification No. 16868,dt.26.12.94 issued by the Labour & Employment Department Govt. of Orissa regarding appointment of Joint/Deputy Assistant labour Commissioner to hear and decide all claims arising out of Payment of Wages Act, 1936.

Sir,

I am directed to say that all the S.D.J.Ms. were authorized to hear and decide the cases filed U/S. 15 of the payment of wages Act, 1936 within their respective territorial jurisdiction vide notification No. 9207 dt.6.07.1994 issued by the erstwhile Labour, Employment & Housing Department. Subsequently in the notification No. 10768, dt.13.07.1987 of the Government in the same Department the Deputy / Assistant Labour Commissioners had also been authorized to hear & decide all claims under the said provision. Thus the S.D.J.Ms and the Deputy /Assistant Labour Commissioners had concurrent jurisdiction to entertain in the applications U/s.15 of the said Act, which creates ambiguity.

The matter was discussed in the District Judges' Conference,1993 under item No.19 and it was resolved that the Government be moved to withdraw one of the notification of the Labour, Employment & Housing Department which are in conflict with each other.

The Government in Labour and Employment Department in supersession of all previous notifications have appointed Joint Labour Commissioner, Cuttack/Deputy Labour Commissioners and Asst. Labour Commissioners of other places for the above purpose vide Notification No.16868, dtd.26.12.1994, a copy of which is enclosed herewith for your information and onward communication to the Subordinate Courts under your jurisdiction for their guidance.

Yours faithfully
S.S.MISHRA
SPECIAL OFFICER (SPECIAL CELL)

GOVERNMENT OF ORISSA,
LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

NO. LL-I-21/94 16868/LE Bhubaneswar, the 26th December, 1994.

In exercise of the powers conferred by sub-section (1) of section 15 of the payment of Wages Act, 1936 (4 of 1936), and in supersession of all previous notifications issued on the subject, the State Government do hereby appoint the Commissioners for work men's Compensation mentioned in Column (2) of the Schedule below to be the Authority within the area specified against each in column(3) of thereof to hear and decide all claims arising out of deductions from the wages, or delay in payment of the wages of the persons employed or paid in said areas including all matters incidental to such claims.

SCHEDULE

Sl No	Designation of Officer	Local limits of jurisdiction.
1.	Joint Labour Commissioner, Cuttack	Revenue districts of 1. Jajpur 2. Jagatsinghpur 3. Kendrapara 4. Cuttack 5. Khurda 6. Nayagarh 7. Puri
2.	Deputy Labour Commissioner, Rourkela	Revenue districts of 1. Sundargarh 2. Keonjhar
3.	Deputy Labour Commissioner, Sambalpur	Revenue districts of 1. Boangir 2. Sonapur

3. Sambalpur
 4. Bargarh
 5. Jharsuguda
 6. Deogarh
4. Deputy Labour Commissioner, Jeypore Revenue districts of
1. Koraput
 2. Rayagada
 3. Malkangiri
 4. Nabarangpur
 5. Kalahandi
 6. Nuapada
5. Assistant Labour Commissioner, Balasore Revenue districts of
1. Balasore
 2. Bhadrak
 3. Mayurbhanja
6. Assistant Labour Commissioner, Berhampur Revenue districts of
1. Gajapati
 2. Ganjam
 3. Phulbani
 4. Boudh
7. Assistant Labour Commissioner, Angul Revenue districts of
1. Dhenkanal
 2. Angul

No.6680 /Dated 19.09.1996

From

Shri S.K. Mohapatra
Registrar (Inspection and Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Desirability to discontinue the practice of maintaining the Register of Intestate property (R)-24 (Civil) and Register of unclaimed property (R) -31 (Criminal).

Sir,

I am directed to say that the question of discontinuance of practice of maintaining the Register of Intestate of property (R)-24 of the G.R. & C.O. (Civil) Vol-II and Register of unclaimed property (R)-31 of the G.R. & C.O. (Criminal)Vol-II was discussed in the District Judges' conference, 1993 under item No. 18 and it was resolved that the proposal be accepted.

On careful consideration of the matter, the Court have been pleased to concur with the aforesaid discussion and direct that maintenance of aforesaid two registers i.e. (R) 24 prescribed in the G.R. & C.O. (Civil) Vol-II and (R) -31 prescribed in the G.R. & C.O.(Criminal) Vol-II be discontinued henceforth.

I am, therefore, to request that the above instructions may be brought to the notice of all Courts subordinate to you for their information and guidance.

Yours faithfully
S.K. MOHAPATRA
REGISTRAR (I & E)

No.6973/ Dated 01.10.1996

From

Shri S.K Mohapatra
Registrar (Inspection and Enquiry)

To

The District & Sessions Judges of the State.

Sub:- Filing of a memorandum at the time of hearing of bail petition.

Sir,

I am directed to invite a reference to Court's Circular letter No. 3447 dtd 30.03.84 in which instructions were issued that a petition for bail u/s. 439 Cr.P.C. must contain a certificate showing whether or not an earlier application for bail had been filed in the Court in which an application for bail is filed or in any other Court having jurisdiction to entertain such application. In case any earlier bail application had been filed, the later petition must specify the particulars of the earlier application and state the circumstances in which the subsequent application has been made.

Recently, it has come to the notice of the Court that in a particular case, application for bail u/s. 439 Cr.P.C. was filed by the accused in the Court of Session during the pendency of the bail application filed by him before this Court. It was not brought to the notice of either this Court or the Court of Session about the grant of bail by the later Court or the pendency of the bail application in this Court.

In order to avoid the possibility of conflicting orders, the Court have been pleased to direct that in addition to furnishing a certificate in the bail petition as required under Circular No.3447 dtd.30.03.84, a memorandum should also be filed in the Court concerned at the time of hearing of bail application stating therein that no other application for bail is pending in any other Court.

I am, therefore, to request that the above indtructions may kindly be brought to the notice of all Criminal Courts subordinate to you for their information and guidance.

Yours faithfully
S.K. MOHAPATRA
REGISTRAR (I & E)

No.6977(13)/ Dated 01.10.1996

From,

Shri S.K. Mohapatra
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge, Cutatck/ Puri/ Ganjam/ Sambalpur/ Bolangir/
Phulbani/ Dhenkanal/ Mayurbhanj/ Keonjhar/ Sundargarh Koraput/ Balasore/
Kalahandi.

Sub; Extending the benefit of 1/5th deduction to all Additional District & Sessions
Judges.

Sir,

I am directed to say that the question of extending benefit of 1/5th deduction to all Additional District Judges came up for discussion in the last District Judges Conference, 1995. It was unanimously resolved to extend the benefit of 1/5th deduction to all the Additional District Judges of outlying stations.

The Court, after careful consideration of the matter have been pleased to concur with the aforesaid decision and direct that the benefit of 1/5 deduction out of total number of days devoted to judicial work should be extended to all the Additional District Judges of outlying stations.

I am, accordingly to request that the above instructions may be brought to the notice of Additional District Judges of outlying stations of your judgeship for information and guidance.

Yours faithfully,
S.K. MOHAPATRA
REGISTRAR (I & E)

No.7252(13)/ Dated 10.10.1996

From

Shri S.K Mohapatra
Registrar (Inspection and Enquiry)

To

The District and Sessions Judge.....(All)

Sub Supply of certified copies of settlements arrived at Lok-Adalats to the parties free of cost.

Sir,

It has been brought to the notice of the Court that a number of applications for grant of certified copies are pending in the Subordinate courts as a result of which parties are facing much difficulty.

The Court on careful consideration of the matter have been pleased to direct that certified copies of the settlements arrived at Lok-Adalats be supplied to the parties free of cost on top priority basis and all pending applications for grant of certified copies be cleared up immediately. This order shall be applicable to all the Lok-Adalats held in the State.

I am, therefore to request that the above instructions may be brought to the notice of all Courts Subordinate to you for their information and guidance.

Yours faithfully
S.K MOHAPATRA
REGISTRAR (I & E)

No. 7644 /Dated 05.11.1996

From

Shri S.K Mohapatra
Registrar (Inspection and Enquiry)

To

All the District and Sessions Judges of the State.

Sub Desirability of evolving ways & means to prevent recurrence of loss/defalcation of valuable M.Os. from Court Malkhana.

Sir,

I am directed to say that the question of evolving ways and means to prevent recurrence of loss/defalcation of valuable M.Os. from Court Malkhana was discussed in the District and Sessions Judge's conference, 1989 held on 2nd& 3rd February, 1990 under item No. 36 and it was resolved that suggestions be invited from all the District Judges with concrete instances, if there be any. The matter was under consideration of the Court for some time past.

The Court, after careful consideration, have been pleased to direct that the Malkhana room as well as the iron chest or steel almirah should have double lock system. One key will be kept with the clerk in charge of the malkhana and the other with the Officer in charge of Malkhana. Though the Registrar, Civil Court or the S.D.J.M. or the senior most Magistrate at the station, as the case may be, will be the officer directly in charge of the Malkhana, the C.J.M. will be the supervisory officer for all malkhanas in his jurisdiction.

I am, therefore, to request that the above instructions may be brought to notice of all Criminal Courts under your jurisdiction for their information and guidance.

Yours faithfully
S.K.MOHAPATRA
REGISTRAR (I & E)

No 226(13)/Dated 09.01.1997

From

Shri M.N. Pattnaik
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge.....(All)

Sub Refixation of Yardstick for disposal of cases involving offence under I.P.C. triable by the courts of Sessions along with offences under S.C. & S.T. prevention of Atrocities Act- 1989.(Item No. 26 District Judges Conference, 1993 held on 4th March, 1994)

Sir,

I am directed to say that the question of enhancement of yardstick for disposal of cases involving offences under I.P.C. triable by the court of Sessions along with offences under S.C. & S.T. (Prevention of Atrocities) Act 1989 came up for discussion in the last District Judges Conference, 1993

The court, after careful consideration of the matter, are pleased to concur with the decision that the yardstick for disposal of case involving offence under I.P.C. triable by court of Sessions along with offences under the scheduled Castes and Scheduled Tribes (Prevention of Atrocities)Act, 1989 be enhanced to five days per one case.

Yours faithfully,
M.N. PATTNAIK
REGISTRAR (I & E)

191

No. 1375(16)/ Dated 21.02.1997

From

Shri M.N. Patnaik
Registrar (Inspection & Enquiry)

To

1. The District & Sessions Judge-cum-1st M.A.C.T.....
2. The Member, 2nd M.A.C.T., Southern Divn., Berhampur.
3. The Member, 2nd M.A.C.T., (N.D.),Sambalpur.
4. The State Transport Appellate Tribunal & 2nd M.A.C.T., Cuttack.

Sub: Guidelines relating to provision contained in Sub-Section-6 of Section 158 of the M.V. Act, 1988.

Sir,

I am directed to forward herewith a copy of letter No. Law-7/97/2364/CB dtd. 25.01.97 received from the D.G. & I.G. of Police, C.I.D., Crime Branch, Orissa, Cuttack along with a copy of letter No. 2437 dtd. 11.12.96 received from Member Secretary, Orissa State Legal Services Authority, Cuttack for your information.

Yours faithfully
M.N. PATNAIK
REGISTRAR (I & E)

Copy of letter No. Law-7/97/2364/CB LAW dated 25.1.97 addressed to All District Ss. P. Orissa including Ss. P Railway Cuttack/Rourkela Ss. P. on the subject of Circular on M.V. Act.

A copy of letter No. 2437 dated 11.12.96 of Member Secretary, Orissa State Legal Services Authority Cuttack is enclosed which will speak for itself.

Please issue instructions to all your O.I.Cs./ IICs to follow the mandatory provisions of M.V. Act, In this connection your attention is drawn sub-section-6 of Sec. 158 of M.V. Act.

A copy of your circular issued to O.I.Cs. / IICs be sent to me in my name cover, D.G.P (Crime) Orissa, Cuttack.

B.B PANDA

D.G & I.G OF POLICE

C.I.D.C.B. ORISSA, CUTTACK.

Copy of letter No. 2437 dtd 11th Dec. 1996 from Member Secretary, Orissa State legal Services Authority, Cantonment Road, Cuttack-753001 addressed to the Director, General & Inspector General of Police, Orissa, Cuttack.

I have been instructed to intimate you that under the Motor vehicles Act, 1988, a report is to be given in Form 54 as stipulated in Rule-150 of the Central Motor Vehicles Rules, 1989 by the Officer-in-charge of Police station with whom a report is lodged about the motor vehicle accident. This is mandatory requirement under the aforesaid Act. Unfortunately not a single report has been given to the Tribunals though statutorily required. Direction was given by the Hon'ble Orissa High Court in Sukanta Kumar Mishra & others-vs-District-Judge-cum-M.A.C.T., Balasore 78 (1994) CLT 625 to follow the procedure. A copy of the Judgment was sent to you as per direction of the Hon'ble Court, but that has also yielded no result.

You are requested to ensure that the procedure as laid down by law is scrupulously followed. Further the Officers seizing the driving licenses, policies of insurance and the certificates of registration at the spot of accident from the drivers of the offending vehicles do not keep copies of these documents before releasing them on zima. They are relevant for adjudication of motor accidents claims. You are requested to issue necessary instruction to all the concerned Police Officers to keep Xerox copies of driving licenses, policies of insurance and certificates of registration before releasing them to concerned persons. You may also instruct them to allow the insurance companies and the claimants or their advocates to take copies of those documents for filing before the Motor Accidents claims tribunals.

No. 1583(43)/ Dated 28.02.1997

From:

Shri M.N. Patnaik
Registrar (Inspector & Enquiry)

To

The District & Sessions Judge(All)

The Chief Judicial Magistrate.....(All)

Sub Holding of monthly meeting of Senior officers to find out ways and means
and to solve various problems for expeditious disposal of Criminal Cases.

Sir,

I am directed to forward herewith a copy of letter No. 5657 dtd. 29.01.1997 of the Deputy Secretary to Government of Orissa in Home Department and request you to maintain the periodicity in holding monthly meeting of Senior Officers as envisaged in Court's Letter Nos. 8487 dtd. 13.09.93 and 5348 dtd.31.07.1996 without any deviation.

Yours faithfully
M.N. PATNAIK
REGISTRAR (I & E)

Copy of letter No.3675 dtd. 29.01.97 from Shri Paresh Chandra Nayak, Deputy Secretary to Govt. addressed to the Registrar (Admn) Orissa High Court, Cuttack on the subject of Improvements of Police Administration and Criminal Justice system.

I am directed to send herewith a copy of D.O. No. VI-14011 /5/95-GA-II dtd. 31.12.1996 received from Ministry of Home Affairs, New Delhi addressed to Chief Secretary, Government of Orissa on the above subject and to say that there is considerable delay in the issue of warrants because of inadequate coordination and vigilance amongst the Police, Judiciary and Prosecution. The monthly monitoring meetings between District Judges, District Magistrates, Superintendent of Police and Prosecution Officers in the District will not only deficiencies in the Criminal Justice system.

It is requested that the institutional mechanism and checks and balances provided in the criminal Justice system., such as monthly monitoring meetings should be conducted in every District and procedures which need the intervention of the judiciary may be brought to notice of the Home Department.

No. 1744(13)/ Dated 04.03.1997

From

Shri M.N. Patnaik
Registrar (Inspector & Enquiry).

To

All the District & Sessions Judge of the State.

Sub: Remand of accused under the N.D. & P.S. Act.

Sir,

It has been brought to the notice of the Court that some of the S.D.J.Ms./Magistrates are refusing to remand the accused in N.D & P.S. Act cases when produced before them.

In this connection, I am directed to forward herewith the accompanying copy of a Full Bench decision of the Court in the case of Banka Das and others-Vs-State of Orissa reported (1992) 5, O.C.R.555 and request you to circulate copies thereof amongst the sub-ordinate Courts and bring to their notice the provision of Section 36 (A) (1) (b) of the N.D & P.S Act.

Yours faithfully
M.N. PATNAIK
REGISTRAR (I & E)

No. 3098/ Dated 11.04.1997

From

Shri M.N. Patnaik
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge of the State.

Sub:- Withdrawal of Court's Circular Letter No. 8472 dtd. 13.09.93 regarding maintenance of separate Criminal Fine Register (A)-17 for old fines.

Sir,

I am directed to say that the question of amending Rule-1 of Appendix-IV at Page-164 of the G.R. & C.O. (Crl) Volume-I in the line of Courts Circular letter No. 8472 dtd. 13.9.93 was under consideration of the Court.

The Court after careful consideration have been pleased to observe that the procedure as laid down under Rule-1 of Appendix-IV of G.R.& C.O.(Criminal) Volume-I shall continue and the instructions issued in circular No.8472 dtd. 13.9.93 be treated as withdrawn.

I am, therefore to request that the above instruction may be brought to the notice of all the Subordinate Criminal Courts under your control.

Yours faithfully
M.N. PATNAIK
REGISTRAR (I & E)

No. 3267(14)/ Dated 22.04.1997

From

Shri M.N. Patnaik
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge.....(All).

Sub: Registration of cases under the N.D & P.S. Act.

Sir,

I am directed to say that the question of entering cases under N.D & P.S. Act in the Register of Sessions Cases (R)23/ Register meant for entering the cases under the Special Act and assigning an identifying letter to distinguish those cases from other categories of cases was under consideration of the Court.

The Court, after careful consideration, have been pleased to observe that cases under the N.D. & P.S. Act be entered in the Register meant for entering the cases under Special Acts and the letters "N.D. & P.S. Act" be mentioned against those cases for the purpose of distinguishing them from other Special Act cases.

I am, accordingly, to request that the aforesaid instructions of the Court be strictly followed henceforth.

Yours faithfully
M.N. PATNAIK
Registrar (I & E)

No. 3268/ Dated 22.04.1997

From

Shri M.N. Patnaik
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Issuance of summons to search witnesses in G.R. Cases as a matter of Course.

Sir,

I am directed to say that the question of for-bearance in issuing summons to search witnesses in G.R. Cases as a matter of Course was discussed in the District Judge's Conference, 1993 under item-14 of the agenda.

On careful consideration of the matter, the Court have been pleased to observe that before issuing summons to search witnesses, Sub-section (5) of Section-100, Criminal Procedure Code, 1973 shall be kept in view.

I am, therefore, to request that the aforesaid instruction of the Court be brought to the notice of all Criminal Courts in your Judgeship.

Yours faithfully
M.N. PATNAIK
REGISTRAR (I & E)

200

No. 5151(14)/ Dated 14.07.1997

From:

Shri J.P. DAS
Deputy Registrar (Administration & Protocol)

To

The District Judge, Cuttack.

Sub: Item No.5 of the District Judges' Conference, 1996

Sir,

I am directed to say that the proposal of making arrangement during the absence of the Presiding Officer in a single station came up for discussion in the last District Judges' Conference , 1996.

The Court after careful consideration of the matter have been pleased to direct that you should depute a Judicial Officer in the event of absence of the magistrate of a single station either on leave or otherwise.

Yours faithfully

J.P. DAS

DEPUTY REGISTRAR (A & P)

No. 5665(44)/ Dated 06.08.1997

From

Shri M.N. Patnaik
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Submission of notes of inspection by the Chief Judicial Magistrates

Sir,

I am directed to say that it has come to the notice of the Court that there is unusual delay in consideration of the inspection notes made by the Chief Judicial Magistrate as per rule 365 at page-108 of the General Rules and Circulars Orders (Criminal) Volume-1(1977 Edition).

The Court, after careful consideration have been pleased to observe as follows:-

- i) The Chief Judicial Magistrate, after inspection will send a copy of the inspection report to the concerned Magistrate. The concerned Magistrate will submit his views/compliance report within a period of six weeks from the date of receipt of the copy of the inspection report.
- ii) The Chief Judicial Magistrate will forward a copy of his inspection report along with the views/ compliance report of the concerned Magistrate to the District & Sessions Judge within a period of four weeks from the date of receipt of the Magistrate's views. In case no views/compliance report are received from the concerned Magistrate within the aforesaid period of six weeks, the Chief Judicial Magistrate will send his inspection report to the District & Sessions Judge without waiting for the views/ compliance from the concerned Magistrate.

- iii) The District & Sessions Judge shall examine the inspection report of the Chief Judicial Magistrate along with the views/compliance reports of the concerned Magistrates and thereafter he shall pass appropriate orders/directions to the Chief Judicial Magistrate and the concerned Magistrate for taking appropriate action. However, in cases where orders/directions of the High Court are necessary, it shall be referred to the Registry of the Court.
- iv) A copy of the order/direction issued by the District and Sessions Judge along with a copy of the inspection report of the Chief Judicial Magistrate shall be sent to the Registry of this Court for record. But if any direction/order is necessary from this Court, it shall be placed before the concerned portfolio Judge and thereafter before the Chief Justice.
- v) The Court have further observed that the previous instructions issued vide Court's Circular Letter No. 13729 dtd. 09.12.81 be treated as withdrawn.

I am, therefore to request that the aforesaid instructions of the court should be strictly followed by the subordinate Civil and Criminal courts in future.

Yours faithfully
M.N. PATNAIK
REGISTRAR (I & E)

No. 7084/ Dated 30.09.1997

From

Shri M.N. Patnaik
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Trial of Criminal Cases-handling of case diaries.

Sir,

I am directed to say that the matter relating to placement of original Police case diaries in the case record was discussed in District Judges Conference, 1996 under Item No. 1 of the Additional agenda.

The Court, after careful consideration have been pleased to concur with the resolution passed in the Conference and observe that instructions conveyed in Courts' Circular Letter No. 1866(8) dt. 22.03.1976 and letter No. 5135 dt. 30.01.1976 be strictly adhered to the Sessions Judges and the Chief Judicial Magistrates during inspection of Subordinate Courts shall ensure that instructions contained in the aforesaid circulars are being scrupulously followed.

Police case diary can be perused only by the Court, the public prosecutor and the Assistant Public Prosecutor. The defence counsel or any other person shall not be allowed to see it. Therefore, the case diary should be kept separately from the case record and strict precaution taken so that it is not seen by any other unauthorized person during trial.

After conclusion of trial the case diaries be kept in a sealed cover separately along with the case record till expiry of appeal period, If records are called for by the appellate Court the case diaries should be sent in a sealed cover separately along with the records. After final disposal of the case and appeal, the case diaries should be handed over to the court Sub-Inspector on obtaining proper receipt.

I am, therefore, to request that the above instructions of the Court may be brought to the notice of all sub-ordinate Criminal courts under you for information and guidance.

Yours faithfully
M.N. PATNAIK
REGISTRAR (I & E)

No. 8617/ Dated 09.12.1997

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Examination of witnesses in Criminal Cases in absence of presiding officer.

Sir,

I am directed to say that the matter relating to examination of witnesses in Criminal Cases in absence of the Presiding Officer was discussed under item No. 4 of the Addl. Agenda of Dist. Judges' conference, 1996.

The Court, after careful consideration have been pleased to concur with the resolution passed in the Conference and observed that when witnesses are in attendance in a case and the P.O. is absent, the case be transferred to another Court subject to the restrictions contained in Section 192(2) and Section 410(2) of the Cr.P.C. Further, while summoning witnesses, the court shall see that the witnesses so summoned are examined on the date fixed.

I am, therefore to request that the above instructions of the court may be brought to the notice of all subordinate Criminal courts under your jurisdiction for information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

No. 8642/ Dated 10.12.1997

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Maintenance of a register in Juvenile Courts relating to cases of Juvenile offenders.

Sir,

I am directed to refer to item No.11 of the proceedings of the District Judges' Conference, 1995, wherein the proposal for prescribing a register to be maintained by the Juvenile Courts relating to Cases of Juvenile offenders, was discussed and it was resolved that one register be prescribed by the court for the above purpose.

The Court after careful consideration of the matter, have been pleased to concur with the resolution passed in the conference and observe that a register be maintained in the Juvenile Courts for cases against Juvenile offenders in the Form attached herewith.

I am, therefore to request that the above instruction may be brought to the notice of all Judicial Magistrates under your jurisdiction for information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

Proforma regarding maintenance of Register on Juvenile courts relating to cases of Juvenile offenders

Sl. No.	Original Case No. with name of the court	Date of receipt in Juvenile Court	Name of the complainant/informant	Name of the accd. with age & address	Nature of case & Sec. of law.	Date of Submission of C.S.	Final order with date	Result of appeal/Revision	Remarks.
1	2	3	4	5	6	7	8	9	10

No. 8885/ Dated 16.12.1997

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Speedy trial of cases of U.T.Ps and Sessions Cases on day to day basis.

Sir,

In inviting reference to item No.2 of the Additional Agenda of the District Judges Conference,1996 and the resolution passed there under, I am directed to say that the Court on careful consideration have been pleased to direct that the instructions contained in Court's letter No. 7723 dtd. 22.08.74 in the matter of trial of Sessions cases should be meticulously followed and there should be no deviation from the principle of de-die-in-diem except in the case of reasons beyond control and there should not be any deviation from Court's instructions contained in Circular Letter No. 10121 dtd. 18.09.86 and No. 9419 dtd.05.11.92 in the matter of trial of U.T.P. Cases.

Suitable instructions should be given to the prosecution well in ahead of time to produce witnesses on the date of trial and P.R. Bonds be obtained from witnesses for appearing on the date fixed while serving summons on them.

I am therefore, to request that the aforesaid instructions be brought to the notice of all the Addl./Asst. Sessions Courts and Magisterial Courts in your Judgeship for their information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

No. 214(14)/Dated 12.01.1998

From

Shri N.P. Rout
Registrar (Inspector & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Maintenance of Office records.

Sir,

In inviting reference to Item No. 8 of the Addl. Agenda of the District judges' Conference, 1996 and the resolution passed there under, I am directed to say that the court on careful consideration of the matter have been pleased to direct that the General Letters and circulars issued by the Court, and the Govt. of India and the State of Govt. should be kept in guard file in the manner prescribed in Rule-338 of the G.R & C.O. (Civil) Vol-I and letter No. 4847 dtd. 29.04.82 of the Court.

I am, therefore to request that the aforesaid instructions be brought to the notice of all the Courts in your Judgeship for their information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I &E)

No. 215(14)/ Dated 12.01.1998

From

Shri N.P. Rout
Registrar (Inspector & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Collection of information about progress of trial of Criminal Cases by the Police.

Sir,

In inviting reference to Item No. 6 of the additional agenda of the District Judges Conference, 1996 held on 10th and 11th January, 1997, I am directed to say that the court after careful consideration have been pleased to concur with the resolution passed in the Conference and direct that the Sessions Judge/ C.J.M. / S.D.J.M. should direct the C.S.I to collect the progress of the trial of all G.R & Sessions Cases at the end of the day or on the next day. This will also ensure attendance of witnesses for the Prosecution on the dates fixed for hearing.

I am, therefore, to request that the aforesaid instructions may be brought to the notice of all the Criminal courts under your jurisdiction for their information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I &E)

No. 1843 / Dated.05.03.1998

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge.....(all)

Sub: Grant of Certified copies of documents in claim cases to the Insurance Companies.

Sir,

In sending herewith the copy of order No. 2 dtd. 19.12.97 passed in O .J. C. No. 17176/97 by the Division Bench consisting of Hon'ble the Chief Justice and Hon'ble Shri Justice A. Pasayat, I am directed to say that the directives of the Court in the aforesaid order to grant certified copies of the documents collected by the investigating agency, which have got link with the accident, to the Insurance Company after following usual procedure obtaining such copies, should be followed by all the Courts hence forward.

I am, therefore, to request you that the observation made by Court in their above said order may please be brought to the notice of all the Courts sub-ordinate to you for their information and guidance.

Yours faithfully,
N.P. ROUT
REGISTRAR (I & E)

O.J.C. No. 17176 of 1997

Order No. 2 dtd. 19.12.97

Heard.

The District & Sessions Judge, Khurda has sent a letter to this court regarding grant of Certified copies of documents in criminal proceedings to the Insurance Company in view of the provisions contained in rules 254,255 and 256 of the G.R.& C.O (Criminal) Vol-I

When a claim petition is filed under the Motor Vehicles Act, 1988 before the Tribunal, it is necessary that some documents should be furnished to the Insurance Company for settlement of the claim. Therefore, we issue a writ of mandamus directing all Courts to grant Certified copies of the documents collected by the investigating agency which have link with the accident, to the Insurance Company after following usual procedures for obtaining such copies. This order shall apply only in case of pending proceedings, as if a case is disposed of, even a third party can apply for certified copy of document.

The writ petition is disposed of accordingly. Registry to take appropriate action in this regard.

Copy of this order be furnished to the learned Addl. Govt. Advocate.

Sd/--S.N.Phukan, CJ.

Sd/--A.Pasayat,J.

212

No. 5573/ Dated 13.05.1998

From

Shri N.P. Rout

Registrar (Inspection and Enquiry)

To

The District and Sessions Judge.....(All)

Sub: Amendment of section-15 of the provincial Small cause Courts Act,1887.

Sir,

I am directed to forward herewith a copy of the Orissa Gazette Notification Nos. 372 dt.28.03.98 and No.398 dt.02.04.98 and No. 1416 dt. 19.11.97 received from the Secretary to Govt. of Orissa, Law Department, Bhubaneswar for information and guidance and for communication to the Judicial Officers under your control and others to whom he deems necessary.

Yours faithfully.

N.P. ROUT
REGISTRAR (I&E)

213

The Orissa Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 372 CUTTACK, SATURDAY, MARCH 28, 1998/CHAITRA, 7, 1920.

LAW DEPARTMENT

NOTIFICATION

The 28TH March.1998

No.5278-II-J.4/96/L. In exercise of the powers conferred by Sub-section (2) of Session 1 of the Court Fees (Orissa Amendment) Act, 1997(Orissa Act 13 of 1997), the State Government do hereby appoint the 2nd day of April, 1998 as the date on which the said Act shall come into force.

By Order of the Governor

H.MOHAPATRA

Secretary to Government

214

The Orissa Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No.398 CUTTACK, THURSDAY, APRIL 2, 1998/CHAITRA 12, 1920

LAW DEPARTMENT

NOTIFICATION

The 2nd April.1998

No. 5422/Legis. The following Act of the Orissa Legislative Assembly having been assented to by the President on the 9th March, 1998 is hereby published for general information.

Orissa Act 4 of 1998

THE PROVINCIAL SMALL CAUSE COURTS (ORISSA AMENDMENT) ACT, 1997

AN ACT TO AMEND THE PROVINCIAL SMALL CAUSE COURTS ACT, 1887 IN ITS APPLICATION TO THE STATE OF ORISSA.

BE it enacted by the Legislature of the State of Orissa in the Forty-eighth Year of the Republic of India as follows:-

1. This Act may be called the Provincial Small cause Courts (Orissa Amendment) Act, 1997.

2. In the Provincial Small cause Courts Act,1887, for sub-sections (2) and (3) of Section 15,the following sub-section shall be substituted, namely:-

“(2) Subject to the exceptions specified in the Schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed two thousand and five hundred rupees shall be cognizable by a Court of Small Cause.”

BY ORDER OF THE GOVERNOR

H.MOHAPATRA

SECRETARY TO GOVERNMENT

No. 6106 (14) /Dated.09.06.1998

From

Shri N.P. Rout
Registrar (Inspection and Enquiry)

To

The District & Sessions Judge.....(all)

Sub: Transfer of antiquities to the State Museum lying in different malkhanas of the State.

Sir,

I am directed to say that the question of transfer of antiquities to the State Museum lying in different malkhanas of the State was under kind consideration of the Court.

The Court after careful consideration have been pleased to observe in para-10(3) of the order dtd.10.4.98 passed on O.J.C. No. 3258/98 that the Orissa State Museum will be fully responsible for the safe custody of the antiquities and an undertaking to that effect shall be given to the concerned judge-in-charge of Malkhanas at the time of taking possession of the antiquities.

The form of undertaking and its mode of execution have been determined as per para-10(3) of the order dt.10.4.98 passed in O.J.C.3258/98.

In sending herewith the xerox copy of the approved form of undertaking and the manner of its execution. I am, therefore, to request you to communicate the same to all the judicial officers of your judgeship for information and guidance.

Yours faithfully,
N.P. ROUT
REGISTRAR (I & E)

No. 6274(14)/ 23.06.1998

From

Shri S. C .Mishra
Registrar (Administration)

To

The District & Sessions Judge.....(All)

Sub: Visit of jails by the District & Sessions Judges & submission of report to the Court.

Sir,

I am directed to request you to kindly apprise the Court as to whether you are visiting the jails regularly pursuant to the instructions issued by the Court in Letter No. 10896 dt. 08.10.86

Further you are requested to visit the jails and sub-jails immediately and intimate the Court indicating the total number of inmates in each of the jails, the number of convicts lodged in the jail's and the total area in which the jails have been established including the rooms available for accommodation of the inmates along with your views on the sufficiency of the accommodation.

As regards hygienic condition of the jail, you are requested to visit the jails jointly with the C.D.M.Os and inspect the hygienic condition of the jail and give joint report on this aspect, immediately.

Yours faithfully
S.C.MISHRA
REGISTRAR (ADMN.)

No. 6627/Dated 17.07.1998

From

Shri N. P. Rout

Registrar (Inspection & Enquiry)

To:

All the District & Sessions Judges of the State.

Sub: Modalities to be followed by the Criminal Courts at the time of granting bail.

Sir,

I am directed to say that it has come to the notice of the Court that a large number of professional and fictitious bailers are operating in the State as a result of which the accused persons admitted to bail under the surety ship of such bailers try to deliberately evade Court attendance being well aware of the fact that the case stands posted for hearing. By such conduct the speedy trial of the Criminal case suffers a great set back. Besides the steps taken against such bailers, yields no result to procure the attendance of the accused.

In order to obviate such contingencies, the Court are pleased to prescribe a set of guidelines to be followed by the Presiding Officers at the time of granting bail.

In enclosing herewith a copy of said guidelines, I am to request that the same may be followed in future scrupulously.

Yours faithfully,

N.P. ROUT

REGISTRAR (I & E)

MODALITIES TO BE FOLLOWED AT THE TIME OF GRANTING BAIL TO THE ACCUSED PERSONS:

- a) In suitable cases, where there is apprehension that the accused may jump bail, preferably the bailor/ bailors as the case may be/should be of blood relation of the accused and in case such bailor/bailors are found not solvent up to bail amount, or are not willing to take bail, the accused is to satisfy the Court on those points and in that case preferably the bailor/bailors should be of the village, Panchayat, Sub-Division or District or any other place Chronologically and in case the accused prefers a bailer outside of his district, the bailor should mention in the affidavit generally required to be filled, to the satisfaction of the Court, as to how he developed acquaintance with the accused. Beside the accused would explain to the satisfaction of the Court in writing as to why he did not prefer to choose a bailor from his district giving convincing reasons for choosing the bailor outside of the District.
- b) Ordinarily the bail may not be granted when the accused has jumped bail and surrenders after the action is taken for his non-attendance in the Court in case he does not satisfy the Court for his non-attendance of the Court due to some unavoidable circumstances.
- c) While in a bail jumping case, the accused is brought under arrest, the Magistrate should not be Liberal in granting bail.
- d) In case the bail-bond/bonds has/have not been forfeited and the accused prays to continue on previous bail, the order to continue on the previous bail should not be passed by the Presiding Officer behind the back of the bailor/bailors.
- e) On the day when the accused was found to have jumped bail, one Misc. Case against the bailor/bailors as well as the accused should be initiated without any further delay.
- f) The bailor/bailors in his affidavit should also mention, as to whether for the 1st time he/they is/are standing sureties or previously he/they was bailor/were bailor in one or more than one case.
- g) While checking the solvency if it is found that the property stands in the name of his (bailor's / bailor's) father, the bailor/bailors should mention in his affidavit that either his/their father or fathers is/are dead and in case it is found

that his/their father of fathers is/are alive, then the present market value of the property of his/their share/shares only should be taken into consideration.

h) When it is found that document relating immovable property stands recorded jointly in the name of 2 or more persons the share/shares of the bailor/bailors would be considered for verification of solvency.

i) The bailor/bailors in his/their affidavit would also mention that the land as mentioned in the document has not been sold, mortgaged or transferred in any other manner and he/they are in possession over the same and there is no Litigation for said Land.

j) The document showing the home-stead Land having house should not be considered at the time of checking solvency. But when it is found that bailor/bailors has/have more than one house and the bailor/bailors has /have given one or more houses on rent and he /they is/are solvent to the bail amount, he/they should be accepted as bailor/bailors.

k) The Presiding Officer while verifying the record should affix the Court seal endorsing the case number and signature so as to make him sure to eliminate the professional bailor.

l) x x x x x x x x x x x

m) The bailor/bailors having identify card/cards if any, to him/them as a voter/ voters may not affix his photograph in his bail petition in case the said identity card is produced before the concerned Magistrate for verification of documents to know that the bailor/bailors is/are solvent to the bail amount.

n) If the bailor/bailors claims/claim to be the Government servant/ servants or employees of any recognized institution, he/they would produce his/their pay certificate/certificates issued by competent authority.

o) Beside the concerned Presiding Officer may ask some questions such as name of the relations of the accused, name of the important persons of the area of the accused and other questions within the frame work of law to know whether the bailor/bailors is/are fake or/and professional.

p) While considering bail, the Presiding Officer considering the gravity of the offence may pass order regarding the bail amount which should not be arbitrarily low.

- q) The Presiding Officer should scrupulously follow the provision made u/s. 437,438,439 Cr.P.C. regarding imposition of conditions while granting bail.
- r)The Sessions Judge while inspecting the Court of C.J.M. should verify at Least 5 bail jumping cases, to know if the bail has been granted after due application of mind and due action has been taken against the bailor and the accused by the Presiding Officer.
- s) The Sessions Judge and the C.J.M. while inspecting magisterial courts should also verify at Least 5 bail jumping cases at random to know if the bail has been granted after due application of judicial mind and whether due action against the bailor and accused have been taken by the Presiding Officer.

No.8196/ Dated 04.09.1998

From

Shri N. P. Rout
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge.....(All)

Sub: Empowering the Chief Judicial Magistrates and other Magistrates for trial of cases coming under Chapter-XXI, u/s. 260 of the Code of Criminal Procedure, 1973 in Summary way.

Sir,

I am directed to say that the Magistrates and the Chief Judicial Magistrates are not following the procedure of summary trial contemplated u/s.260 Cr. P.C.

With a view to bring down pendency of criminal cases swelling day by day a proposal under item No. 21 was discussed in the District Judges Conference, 1997 and it was resolved to issue necessary instruction to all District and Sessions Judges of the State to follow the procedure of summary trial of cases coming under Chapter-XXI, Section 260 of Cr.P.C.

The Court, after careful consideration, have been pleased to concur with the aforesaid proposal and observe that the Chief Judicial Magistrates and others Judicial Magistrates should follow the procedure made in Chapter-XXI of the Cr.P.C. and reflect the same in their respective quarterly statements.

I am, therefore, to request that the aforesaid instruction of the Court may be intimated to the Chief Judicial Magistrate and other Judicial Magistrates working under your control for their guidance and strict observance in future.

Yours faithfully,
N.P. ROUT
REGISTRAR (I&E)

No. 8198/ Dated 04.09.1998

From

Shri N. P. Rout
Registrar (Inspection & Enquiry)

To

1. The 1st M.A.C.T-cum-District & Sessions Judges.
 2. The Member, Second M.A.C.T.(S.D), Berhampur.
 3. The Member, Second M.A.C.T.(N.D.), Samabalpur.
 4. The Member, State Transport Appellate Tribunal-cum-IIInd M.A.C.T., Cuttack.
- Sub: Maintenance of register in the Courts of M.A.C.Ts to note the particulars of cheques received towards payment of compensation to the parties.

Sir,

I am directed to say that the question of maintenance of a register to record the particulars of cheques as soon as the same are received for payment to the claimant(s) in M.A.C.T. cases was under consideration of the Court for sometime past.

After careful consideration of the matter, the Court have been pleased to observe that in order to record the particulars of cheques received towards payment of compensation to the parties and also for keeping an account of cheques for the statistical purpose, a register be maintained in the Courts of M.A.C.Ts. in the proforma appended hereto.

I am, therefore, to request that the above instruction of the Court may be strictly followed in future.

Yours faithfully,
N.P. ROUT
REGISTRAR (I&E)

223

PROFORMA

Register for maintenance of Cheques/ Draft

Sl. No.	Case No. & Date of disposal.	Name of Remittee	Description of cheque/ Draft such as 1. Cheque No. 2. Date of Issue 3. The amount prescribed 4. Name of the Bank issued	Description of claimant
1	2	3	4	5
Signature with date of claimant acknowledging the cheque/ Draft.	Signature of identifying person	Signature of Dealing Asst.	Signature of Presiding Officer.	Remark
6	7	8	9	10

No. 8199/Dated 04.09.1998

From:

Shri N. P. Rout
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge (All)

Sub: Handing over the records to the Bench Clerk in G.R. Cases where final reports are being Submitted.

Sir,

I am directed to say that the question of receipt of the G.R. Case records by the Bench Clerk in finally reported cases was under Consideration of the Court.

Subsequently the aforesaid proposal was discussed in the District Judges Conference, 1997 under item No. 24 of the Agenda.

The Court, after careful consideration, have been pleased to concur with the said proposal and direct that the G.R. Case records in which final report are being submitted should be handed over to the concerned Bench Clerk by the C.S.I. immediately after receipt of the final report.

I am therefore to request that the aforesaid direction of the Court may kindly be brought to the notice of the Courts subordinate to you for their information and strict compliance in future.

Yours faithfully,
N.P. ROUT
REGISTRAR (I & E)

No.8224 (14)/ Dated 05.09.1998

From

Shri N. P. Rout

Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub Change in the periodicity of inspection of Subordinate Courts by the Chief Judicial Magistrates and Dist. Judges.

Sir,

I am directed to say that in the District Judges Conference,1997 under item No.23, It has been resolved that the C.J.Ms. shall inspect all the magisterial Courts once in a year and the District Judges shall inspect all the Courts of C.J.Ms. once in a year.

The Court, after careful consideration of the matter have been pleased to concur with the resolution passed under item No.23 and direct that the present practice of holding half yearly inspection by the C.J.M. as per Courts circular Letter No.6897 dtd.29.7.92 be modified accordingly.

I am, therefore to request that this may be brought to the notice of all officers under jurisdiction for their information and guidance.

Yours faithfully

N.P.ROUT

REGISTRAR (I & E)

No.8774 (14)/ Dated 26.09.1998

From

Shri J .P .Das
Deputy Registrar (Administration and Protocol).

To

The District Judge, Cuttack.

Sub: Item No.3 and 11 of District Judges Conference,1997

Ref: Courts earlier circular Letter no. 5151(14) dtd.14.07.97

Sir,

I am directed to say that the proposal regarding desirability of modification of Courts Letter no. 5151 (14) dtd. 14.07.97 regarding deputation of Judicial Officer during the absence of presiding Officer in a single station came up for discussion in the last District Judges conference, 1997.

The Court after careful consideration of the matter have been pleased to direct to follow the courts earlier circular Letter no. 5151 (14) dated 14.07.97 as far as practicable.

Yours faithfully,

J.P.DAS

DEPUTY REGISTRAR (A & P)

No.9081 (14)/ 17.10.1998

From

Shri S. C .Mishra,
Registrar (Administration)

To

The District and Sessions Judge.....(All)

Sub: Inclusion of D.F.Os. in the monthly meetings of the Senior Officers.

Sir,

I am directed to say that in Courts Letter No. 8487 dated 13.09.93 and Letter no. 5348 (13) dated 31.07.96, instruction was issued for holding of monthly meetings of Senior Officers Like District and Sessions Judges Collectors, Superintendents of Police, Chief Judicial Magistrates and public Prosecutors to find out ways and means to solve the various problems for expeditious disposal of Criminal cases.

In the District Judges Conference, 1997 it was discussed in the presence of the Commissioner-cum-Secretary to Government of Orissa, Forest and Environment Department, Bhubaneswar that the District Forest Officers of the state should attend the monthly meeting held by the District Judges, S.Ps. Collectors etc. in order to facilitate quick disposal of Forest cases pending in the various Courts.

The Court, on careful consideration of the matter are pleased to direct that the D.F.Os. should be included in the monthly meetings of the Senior Officers as indicated above and the existing practice should continue.

I am therefore, to request that the above instruction of the Court be brought to the notice of the Sub-ordinate Courts working under you for their information and guidance.

Yours faithfully,
S.C.MISHRA
REGISTRAR (ADMINISTRATION)

No.9324/ Dated 28.10.1998.

From

Shri N. P. Rout
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Desirability of strict observance of Rule-119(1) & (3) of the Police Manual Rules, 1940 regarding testing of gold, silver and other valuable metals out of the Panel of the goldsmith prepared by the C.J.M. and Superintendent of Police.

Sir,

I am directed to refer to item No. 22 of the Proceedings of the District Judges Conference, 1997, wherein the matter for strict observance of rule 119(1) & (3) of the Police Manual Rules, 1940 regarding testing of gold, silver and other valuable metals out of the Panel of the goldsmith prepared by the C.J.M. & Superintendent of Police, was discussed and accepted.

The Court, on careful consideration have been pleased to concur with the resolution passed in the Conference, under item No. 22 and to direct that the instruction Issued in Home Department Letter No. 51989 dtd.18.10.85 published at page-352 of the Compendium of General Letters and Circulars (Criminal) Should be strictly adhered to and compliance report be submitted to the Court soon.

I am, therefore to request that the aforesaid instruction may be brought to the notice of the Judicial Officers working under your Jurisdiction for their information and guidance.

Yours faithfully,
N.P. ROUT
REGISTRAR (I & E)

No.9394/ Dated 30.10.1998

From

Shri N. P. Rout
Registrar (Inspection & Enquiry)

To

The District & Sessions Judges(All)

Sub: Sending of information's by the Police Officers to Motor Vehicle
Accident Tribunals in Motor accident cases.

Sir,

I am directed to say that it was resolved under items No. 26 of the District Judges Conference, 1997 that the District Judges should take up with the concerned Police Officers to comply the provision of Section 158(6) of M.V. Act for sending Information to M.A.C.T.s in Motor Accident cases and the motor accident case records shall be preserved permanently. The Court after careful consideration have been pleased to direct that the aforesaid resolution be brought to the notice of the concerned officers for their strict compliance in future.

I am therefore to request that the said instruction of the Court may kindly be brought to the notice of the Courts subordinate to you for their information and guidance.

Yours faithfully,
N.P. ROUT
REGISTRAR (I& E)

*Modified vide Court's letter No.
1211 Dtd.10.02.1999*

No.9774/Dated 16.11.1998

From

Shri N. P. Rout
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Desirability of allowing the Police Officials deputed from the office of C.S.I. for collecting information regarding progress of cases under Special Acts.

Sir,

I am directed to say that the question of allowing the Police Officials deputed from the office of C.S.I. for inspection of the register and collecting required information on the progress of the cases under the Special Acts Like N.D.P.S, Act, S.C. & S.T. (Prevention of Atrocities) Act etc., had engaged the attention of the Court for same time past.

The Court, after careful consideration, have been pleased to direct that the Officers deputed from the office of the C.S.I. be allowed to inspect the register maintained for the Special Act Cases for collecting required information regarding process of those cases.

I am, therefore to request that the above instructions may be brought to the notice of all concerned for strict adherence of the same in future.

Yours faithfully,
N.P. ROUT
REGISTRAR (I & E)

231

No.9777/ Dated 17.11.1998

From

Shri N. P. Rout

Registrar (Inspection & Enquiry)

To

All the District & Sessions Judge of the State.

Sub: Re-opening of case records which were placed in the dormant file on account of non-appearance of accused persons.

Sir,

I am directed to say that it has come to notice of the Court under item No.2 of the Proceedings of the deliberation in the 46th Police Officers Conference held on 19.04.98 in presence of Hon'ble C.J. and Hon'ble Justice A. Pasayat that number of case records, placed in the dormant file on account of non-appearance of accused persons, are not being re-opened even after the accused persons are produced and released on bail though there is clear provision in rule-327 of G.R. & C.O. (Cr.) Vol.I.

The Court, on careful consideration, have been pleased to direct that rule-327 of G.R. & C.O. (Criminal) Volume-I be meticulously followed in cases kept under dormant files.

I am, therefore, to request that the aforesaid instruction may be brought to the notice of the Judicial Officers working under your Jurisdiction for their information and guidance.

Yours faithfully,
N.P. ROUT
REGISTRAR (I & E)

No.10759/ dated 21/12/1998

From

N. P. Rout
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State

Sub: Framing of Rules by the High Court of Orissa for Inter Country Adoption of Children by Foreign Nationals.

Sir,

I am directed to forward herewith a copy of rules framed by the Orissa High Court for Inter Country adoption of Indian Children by foreign Nationals and to request that the copies of the same may be brought to the notice of the Courts Subordinate to you for their information and necessary action.

Yours faithfully,
N.P. ROUT
REGISTRAR (I& E)

RULES FOR INTER COUNTRY ADOPTION OF CHILD BY FOREIGN

PARENTS FRAMED BY THE HIGH COURT OF ORISSA, CUTTACK

1. The rule may be called as "The Inter Country Adoption" of Child by foreign parents Rules, 1998.
2. These rules shall come into force on the date of their publication in the Orissa Gazette.
3. A foreigner desirous of being appointed as guardian of the person of the minor and praying for leave to remove the minor to a foreign country shall,
 - i) Make an application for the purpose in the prescribed form to the appropriate authority under the Guardian and Wards Act, 1890 and
 - ii) Annex two copies of passport size photographs of the minor duly attested by the person having custody of the minor at the time of application.

Provided that every application from a foreigner desirous of adopting a child must be sponsored by a social or child welfare agency recognized or Licensed by the Government of the Country in which the foreigner is resident or by any such agency recognized/ Licensed by the State/ Union Government.

4.
 - i) If the Court is satisfied that there is ground for proceeding on the application it shall fix a date of hearing of the application and cause service of notice of the application on the Secretary, Indian Council of Social Welfare and Indian Council of Child Welfare or any of their branches as the case may be by registered post.
 - ii) If neither of them appears/co-operates, the Court Shall issue notice to an independent Child Welfare Agency operating in the State after duly recognized by the state/ Union Government.

5. Every person appointed as guardian of the person of a minor shall execute a bond with or without surety or sureties of such sum as the Court may fix having regard to the welfare of the minor, to ensure his production in the Court as and when so required by the Court.

6. The Court passing an order for appointment of a foreign guardian or the person of an Indian minor, shall countersign the photograph of the minor and issue the same along with the certificate of guardianship to the guardian or Joint guardians as the case may be.

7. While passing the order, the Court shall ensure the overall interest of the Child as envisaged under the guardian and wards act, 1890 and attempt should be made to find Indian parents of Indian origin for the children so that they may retain their culture and heritage.

No.1211/ Dated.10.02.1999

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

The All the District & Sessions Judges of the State.

Sub:- Preservation of G.R.Case records relating to Motor accident cases permanently.

Sir,

I am directed to refer to Court's circular letter No.9394 dtd.30.10.1998., wherein instructions were issued that the District Judges should take up with the concerned Police Officers to comply the provision of Section 158(6) of M.V.Act for sending information to M.A.C.Ts. in Motor Accident Cases and the Motor Accident case records shall be preserved permanently.

The Court, while deciding in OJC.No.331/99, have been pleased to direct that G.R. case records wherein motor Vehicle accidents involved, are to be preserved permanently (copy of order No.3 dtd.19.01.99 is enclosed herewith for references).

I am, accordingly, to request that the instructions of the Court may be brought to the notice of the Criminal Courts subordinate to you for their information and guidance.

The instruction issued vide Courts' letter No.9394 dtd.30.10.98 be modified accordingly.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

O.J.C.No.331 OF 1999

Order No. 3 dtd.19.1.1999.

A suo motu action was taken on a petition addressed to one of us (Pasayat,J) relating to preservation of records of G.R.Cases relatable to Motor vehicle accidents. This matter was discussed in the District Judges Conference of the year 1997 and under item no.26, it was resolved that the case records should be preserved permanently. From the report of the Registrar (Administration) it appears that there is some amount of confusion as to whether the records of the Motor Accident Claims Tribunals are to be preserved or the G.R.Cases involving motor vehicle accidents. Obviously the intention is to preserve the G.R.Cases wherein motor vehicle accidents are involved. It appears from the report that on 30.10.1998 the Registrar (I & E) has intimated the District and Sessions Judge of each District for preservation of the motor accident claims records. Let a further clarification be issued that G.R. Cases wherein motor vehicle accidents are involved are to be preserved permanently. The registry shall notify accordingly alongwith a copy of our order.

The writ application is disposed of.

A.PASAYAT, J

P.K.MISRA, J

No.3038(13) Dated 15.04.1999

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

1. The 1st M.A.C.T-cum-District & Sessions Judge.
2. State Transport Appellate Tribunal, Cuttack.
3. The 2nd M.A.C.T.(S.D.),Berhampur
4. The 2nd M.A.C.T.(N.D.),Sambalpur.

Sub: Consignment of disposed of M.A.C.T records directly to the District Record Room by the 2nd M.A.C.Ts. for preservation.

Sir,

I am directed to say that the questions of consignment of disposed of M.A.C.T. Case records to the District Record Room was discussed under item No.29 of the agenda of the District Judges' Conference, 1998 and it was resolved that the respective Motor Accident Claims Tribunals shall send the disposed of records direct to the District Record Room under rule 268 of the G.R.&C.O.(Civil).Volume-I without routing through the 1st M.A.C.T. However, the result of M.A.C.T. Cases shall be intimated to the 1st M.A.C.T. concerned.

The Court after careful consideration have been pleased to concur with the aforesaid resolution.

I am, therefore directed to bring the above said resolution to the notice of all the concerned officers for their information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

No.4235/ Dated 29.05.1999

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge-cum-First M.A.C.T. of the State.

Sub:- Fixation of time limit etc. for disposal of M.A.C.T., Cases.

Sir,

In inviting a reference to item No.1 of the Addl. Agenda of the District Judges' Conferences, 1998 on the above subject, I am directed to say that the question of fixation of yardstick for disposal of M.A.C.T. cases was discussed in the conference and it was resolved that the claim cases be disposed of within one year from the date of appearance of the opp. parties.

It was further resolved that the respective M.A.C.Ts. Shall call for a list from the concerned Insurance Company in which they are agreeable for compromise and to take up conciliation proceedings once in a month.

The Court, after careful consideration, have been pleased to concur with the aforesaid resolution.

I am therefore to request that the aforesaid instructions may be brought to the notice of all concerned and ensure its strict adherence forthwith.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

No.4250 Dated 29.05.1999

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

The First M.A.C.T-cum-District Sessions Judge.
The Member, Second M.A.C.T., Southern Division, Berhampur
The Second M.A.C.T., Northern Division, Sambalpur
The State Transport Appellate Tribunal, Cuttack.

Sub:- Submission of quarterly report regarding proper implementation of provisions contained in Section-158(6) of the M.V.Act to the Secretary, State Legal Services Authority, Cuttack.

Sir,

I am directed to say that the question of submission of quarterly report regarding proper implementation of Statuary Mandate contained in Section 158(6) of the M.V.Act,1988 was discussed under Item No.2 of the Addl.Agenda of the District Judges' Conference,1998 and resolved that the District & Sessions Judges-cum-1st M.A.C.Ts. shall ensure proper implementation of Section 158(6) of the M.V.Act and insist for a list of accident cases reported and registered in each police station of the District to be discussed in the monthly meeting of High Officers to find out whether the aforesaid provisions has been complied with and submit a quarterly report to the Secretary, State Legal Services Authority, Cuttack.

I am, therefore, to request you to kindly follow scrupulously the above decision arrived at in the District Judges' Conference,1998.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

No.4376 Dated 07.06.1999

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

The District & Session Judge, of the State.....(All)

Sub: Modification of General letter No. 1 of 1976 (Civil & Criminal) regarding exemption of Orissa Judicial service Class-II Officers from writing D.O. Letters directly to the Registrar, Orissa High Court in case the delay in delivery of judgment

Sir,

I am directed to say that the question of amendment of Rule-109 of the G.R. & C.O.(CrI.) Vol.I in the light of G.L.No.1/76 (Civil & Criminal)was discussed under item No. 5 of the Agenda of the District Judges' Conference, 1998 and was resolved that G.L.No.1/76(Civil & CrI.) exempting the officers in the cadre of O.J.S. Class-II from writing Demi-Official Letters to High Court in case of delay in delivery of Judgements beyond 3 weeks shall be suitably modified and they shall write letters to their respective District and Sessions Judge who in turn shall inform the matter to the Registrar (Administration) of the High Court of Orissa.

The Court after careful consideration have been pleased to concur with the aforesaid resolution and direct that G.L.No.1/76(Civil & CrI.) be modified in the above light.

I am therefore to request that the above instruction of the Court may kindly be brought to the notice of the Subordinate Criminal Courts working under your Judgeship for their information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

No. 4378 Dated 07.06.1999

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

The District & Session Judge of the State.....(All)

Sub:- Modification of Court's Letter No.51 dtd.03.01.91

Sir

In inviting a reference to the Court's letter No.51, dtd 03.01.91 on the above subject, I am directed to say that it has been resolved under Item No.4 of the Agenda in the District Judges' Conference,1998, to issue a clarification to the effect that the limit of 15 days prescribed in Court's Letter No. 51, dtd.03.01.91 is also applicable in case of the convicts who are also released on interim bail, i.e. the convicts are to file the bail bonds within the 15 days of the limit that has been prescribed in the Court's letter.

Accordingly, the Court's letter No.51, dtd 3.1.91 is modified.

I am, therefore, to request that the above instruction modifying Court's letter No. 51,dtd.03.01.91 may be brought to the notice of all concerned for their information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

242

NO. 4380/ Dated 07.06.1999

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

All the District and Sessions Judges in the State.

Sub:- Proposal for amendment of S.245 of the Criminal Procedure Code-Item No.26(i) of the District Judges Conference, 1995 and item No. 37 of the District Judges Conference,1998.

Sir,

I am directed to say that the question of adoption of West Bengal Act,24/88 in the matter of amendment under S.245 Cr.P.C. once had been discussed under item No.26(i) of the District Judges Conference of 1995 and resolved that the matter would be examined by the Registry. This matter was again brought to the purview of discussion under item No.37 of the District Judges' Conference, 1998 and resolved that all the Courts concerned are to follow the directives of the Apex. Court reported in O.C.R.(S.C).530 (Raj Deo Sharma-vs-State of Bihar (Copy enclosed).

I am, accordingly to request that the rulings of the Apex Court in the aforementioned case may be brought to the notice of all Subordinate Courts to follow the procedure scrupulously in future.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

NO. 4451 Dated 11.06.1999

From

Shri N.P. Rout
Registrar (Inspection and Enquiry).

To

The District and Sessions Judge of the State.

Sub: Noting of order on disposal of properties alongwith final order in Trial Register (R) 3 and Register of Sessions Cases(R) 23.

Sir

I am directed to say that the proposal for noting the order of disposal of properties alongwith final order in Trial Register(R)23 and Register of Sessions Cases(R) 23was discussed under item No.16 of the agenda of District Judges conference,1998 and resolved that the order on disposal of properties be noted alongwith final order in Trial Register (R) 3 and Register of Sessions Cases (R) 23.

The Court after careful consideration have been pleased to concur with the aforesaid resolution and direct that the order on disposal of properties alongwith the final order should be noted in column 10 of Form No. (R) 23 (Register of Sessions Cases) and in column-8 of Form No.(R) 3 (Trial Register) in Criminal Courts and in Special Act. Cases.

I am, therefore to request that, the aforesaid direction of the court may kindly be brought to the notice of Criminal courts subordinates to you for their information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I&E)

NO. 5523 Dated 22.07.1999

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judge of the State.

Sub:- Issuance of N.B.W with detailed address & parentage of the Warrantees by the issuing Court.

Sir,

It has been brought to the notice of the Court in the High Level meeting held on 10.5.98 at the State Guest House, Bhubaneswar that in a large number of cases detailed address and parentage of the warrantees are not being mentioned by the issuing Courts, for which concerned Os.I.C. of the Police Stations are returning the warrants to the issuing Courts for issuing fresh warrants with detailed address and parentage of warrantees.

The Court, on careful consideration of the matter have been pleased to direct that detailed address, parentage etc. be mentioned in the warrants.

I am, therefore, to request that the aforesaid instruction may be brought to the notice of all Subordinate Courts under your control for their information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

245

No. 7688/Dated 20.09.1999

From

Shri N.P. Rout
Registrar (Inspection & Enquiry)

To

The District & Sessions Judges of the State.

Sub: Amendment to Rule-155 of the Orissa Treasury Code to the effect that the Commission paid on money order for disbursement of witness batta be borne by the State.

Sir,

I am directed to enclose herewith the copy of Finance Department Notification No. 33994 dtd 04.08.99 on the above subject and to request that this amendment may be brought to the notice of all Courts under your Jurisdiction for their information and necessary action.

Yours faithfully

N.P. ROUT

REGISTRAR (I & E)

246

GOVERNMENT OF ORISSA

FINANCE DEPARTMENT

NOTIFICATION

No. TRC-99/99/.33994/ dated 4th august 1999/

In exercise of the powers conferred by rule 15 of the Treasury Rules (Orissa), the Minister Finance, after consultation with the Accountant General, Orissa, directs that the following amendment shall be made in the Subsidiary Rules, under the said Rules published in Part-II of the Orissa Treasury Code, Volume-I namely:-

AMENDMENT

In the said subsidiary Rules in subsidiary rule 155 the following para be added

“Provided that when money payable by the courts to the witnesses for attending criminal and sessions courts is paid by postal money order the cost of remittance towards money order commission may be paid out of Courts contingencies”

By order of the Governor

N.C.MOHAPATRA

ADDITIONAL SECRETARY TO GOVERNMENT

247

No. 9771 / Dated 22.09.1999

From

Shri N.P.Rout
Registrar (Inspection and Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Circulation of Apex Court decision passed in Raj Deo Sharma Vrs. State of Bihar, decided on 22.09.99, reported in 1999(4) Crimes 52(S.C)- reg. Section 309 and 311 of Cr.P.C.r/w Article 21 of constitution of India.

Sir,

In Continuation to court's Circular letter No. 4380 dt.07.06.99 wherein the directives of the Apex Court reported in 1998(7) Supreme 556 (Raj Deo Sharma Vrs State of Bihar) were circulated, I am directed to enclose herewith the copy of the clarification of Apex Court reported in 1999 (4) Crime 52 (S.C) for strict observance.

I am, therefore, to request that the modified directive of Apex Court in the above case may be brought to the notice of all, subordinates courts to follow the procedure scrupulously henceforth failing which the matter will be viewed seriously.

Yours faithfully
N.P.ROUT
REGISTRAR (I & E)

No. 8617 / Dated. 28.10.1999

From

Registrar (Inspection & Enquiry).

To

All the District & Sessions, Judges of the State.

Sub: Empowering the Addl. Dist. & Sessions Judges of the outlying stations to entertain election appeal u/s.44(Q) of the Panchayat Samit Act.

Sir,

I am directed to say that the question of empowering the Addl. Dist. & Sessions Judges of the outlying stations to entertain election appeal u/s.44 (Q) of the Panchayat Samiti Act within their respective jurisdiction was under consideration of the Court.

The Court, on careful consideration have been pleased to observe that all the Addl. Dist. Judges of outlying stations be authorized to entertain election appeals U/S. 44(Q) of the Orissa Panchayat Samiti Act and the District Judges are also authorized to assign such election appeals to the Addl. Dist. Judges working within their jurisdiction.

I am therefore to request that the above mentioned instruction may be brought to the notice of Addl. Dist. & Sessions Judges working in the outlying stations of your Judgeship for their information and guidance.

Yours faithfully

Sd /-

REGISTRAR (I & E)

No. 252(14) / Dated. 11.01.2000

From

Shri Siris Chandra Mishra
Registrar (Administration)

To

The District Judge..... (All)

Sub: Disposal of cases by the Chief Judicial Magistrates by holding Courts inside the jail premises pertaining to under trial prisoners involved in Petty Offences: Reference made by Hon'ble the Chief Justice of India.

Sir,

I am directed to send herewith a copy of D. O. Letter dtd. 29.11.99 received from the Hon'ble the Chief Justice of India addressed to Hon'ble the Chief Justice of Orissa on the above subject and to say that the Court after careful consideration of the matter have been pleased to observe that all the Chief Judicial Magistrates of the State shall enquire and submit reports after obtaining reports from concerned Superintendents of Jails/ Sub-jails as to the number of under trial prisoners involved in petty offences who are willing to confess their guilt so that the cases against them can be disposed of expeditiously.

I am therefore, to request that all the Chief Judicial Magistrate under your control be asked to act accordingly and submit their reports to the Court at the earliest for issuance of further instruction in the matter.

An early compliance in the matter is solicited.

Yours faithfully
SIRIS CHANDRA MISHRA
REGISTRAR (ADMINISTRATION)

Dr. A. S. Anand
CHIEF JUSTICE OF INDIA

D.O.NO.CJS/SC/99/
Dated November 29th ,1999

Dear Chief Justice,

The poor illiterate and weaker sections in our country suffer day in and day out in their struggle for survival and look to those who have promised them equality-social, political and economic. We who are responsible for upholding the Rule of Law in the country may not be in a position to solve all of their problems but we can certainly contribute our might to nourish and safeguard the Constitutional goal of 'equal justice for all' to the extent possible. I am deeply pained when I notice that all over the country, a very large numbers of under-trial prisoners suffer prolonged incarceration even in petty criminal matters merely for the reason that they are not in a position, even inailable offences, to furnish bail bonds and get released on bail. Many of them during such confinements only develop criminal traits and come out fully trained criminals.

I called for information from National Crime Bureau regarding the number of such under-trial prisoners in the country but they are not maintaining statistics in this regard. However, in Central Jail, Delhi only over 9000 prisoners were languishing as under-trial prisoners on 31st of July, 1999. According to one survey out of the total jail population in the country, under-trial prisoners constitute 73% many of whom are involved in petty offences and are ready and willing to confess their guilt but cannot do so unless a Police report is filed against them in a Court of law. Most of such prisoners are not likely to get severe punishments for the reason that the offences in which they are involved are petty or that they being first offenders may be entitled to the benefit of probation or may be let-off by the Courts on payment of fine only. It is neither just nor fair that persons involved in petty offences should suffer incarceration much beyond the ultimate punishment merely on account of the fact that they happen to be poor and under-privileged.

I, therefore, suggest, for your consideration, that every Chief Metropolitan Magistrate or the Chief Judicial Magistrate of the area, in which a District jail falls may hold his Court once or twice in a month, depending upon the workload in jail to take up the cases of those under-trial prisoners who are involved in petty offences and are keen to confess their guilt. "Legal Aid Counsel" may be deputed in jails to help such prisoners and move applications and move applications on their behalf on the basis of which the Chief Metropolitan or the Chief Judicial Magistrate may direct the investigating agency to expedite the filing of the Police report. Thereafter, if the prisoner voluntarily pleads guilty, he may be awarded appropriate punishment in accordance with law. There may be some cases in which the under-trial prisoners after moving such applications may change their mind and decide to contest the cases. Such cases may be transferred to the concerned Courts for trial in accordance with law. I feel, this exercise can go a long way in providing speedy justice to the poor under-trial prisoners and also reduce the jail population which is becoming a cause of concern.

I shall be happy to have your response and suggestions also, if any.

With best wishes.

Yours Sincerely
(A.S. ANAND)

Hon'ble Shri B.N. Agrawal,
Chief Justice,
High Court of Orissa

NO. 2020(14) / Dated 03.03.2000

From

Shri J.P. Das,
Special Officer (Administration).

To

The District and Sessions Judge (All)

Sub: Disposal of cases by the Chief Judicial Magistrates by holding courts inside the Jail premises pertaining to under Trial Prisoners involved in petty offences.

Sir,

In continuation of Court's letter No. 252(14) dtd.11.01.2000 and on perusal of reports submitted by the Chief Judicial Magistrates of the State on the above subject. I am directed to say that the Court on careful consideration of the matter are pleased to observe that all the Jail authorities throughout the State be directed by the concerned Chief Judicial Magistrate to report to them if in future in petty offences any accused in custody is ready to confess his guilt, so that the concerned chief Judicial Magistrate shall hold court inside the Jail premises for disposal of such cases with utmost expedition and in case they do not plead guilt, then their cases shall be tried in Courts on priority basis. Detailed report in both the cases shall also be submitted to this Court at the end of each quarter.

Yours faithfully

J.P. DAS

SPECIAL OFFICER (ADMN.)

No. 2200(14) / Dated 09.03.2000

From

Assistant Registrar (Establishment)

To

The District & Sessions Judge (All)

Sub: Disposal of Seven years old cases.

Ref: Court's Fax Message No. 1149 (14), dated 03.02.2000.

Sir,

I am directed to say that pursuant to the letters received from the Hon'ble the Chief Justice of India (copies enclosed) expressing concern over the pendency of large number of more than seven year old cases with a further indication that treating the year 1999 as an "YEAR OF ACTION", the officers may be given extra disposal units for deciding such old matters as an incentive and to take up such old matters which are pending by the end of 1999 on day-to-day basis, the Court after considering the statistical figures of the seven years old pending cases of all the judgements of the State are of the view that the disposal of more than seven years old cases in our State was negligible. Hence, in order to monitor the expeditious disposal of more than seven years old cases, the Court have been pleased to direct all the District & Sessions Judges posted in the different judgements to furnish information mentioned here under so as to reach the Court within one month from the date of receipt of this message from this Court.

The Sessions Judges shall collect information from all the courts individually and separately within their respective judgements. Outlying courts shall furnish the information to the senior most Judicial Officer posted at that station, who in his turn shall the same to the District and Sessions Judge concerned by special messenger. On receipt of such information concerned District and Sessions Judges shall forward it along with such information received from courts at the headquarters through

special messenger and not by fax to this Court. The Officers be informed that the Court is considering the question of giving extra units for disposal of such old cases.

(i) Total number of pendency together with details of more than seven years old cases (both Civil & Criminal) in the courts of (a) District & Sessions Judges: (b) Addl. Dist. & Sessions Judges: (c) Asst. Sessions Judges: (d) Chief Judicial Magistrates: (e) Judicial Magistrates, First Class: (f) Judicial Magistrates, Second Class: and (g) all courts dealing with Civil matters exclusively.

(ii) What are the reasons for non-disposal of such criminal cases- whether due to (a) non- appearances of official witness like police officials, doctors and any other type of official witnesses: (b) non-production of non-official witnesses by the prosecution and reasons for the same.

(iii) If cases are pending on account of non- production of official witness, who have been already transferred to other stations, the Court concerned should supply the number of such cases, names and designations of the witnesses.

(iv) If one such witness is required to be examined in more than one case in one court, numbers of those cases should be separately sent to this court so that steps can be taken for production of such witnesses in all such cases by fixing all such cases on one day.

(v) In cases official witnesses are still at the concerned station but are not being produced the matter be taken up with highest officer in the District, i.e. District Magistrate, Superintendent of Police, Chief District Medical Officer, as the case may be and likewise similar other officers. If such officers fail to take any steps, the matter be reported to this Court so that the matter be taken up at the State level for suitable action against such an officer.

(vi) Details of such cases be furnished where on account of non-production of non-official witnesses, by the State prosecuting agency in police cases and private prosecutor in complaint cases specifying whether it is police case or complaint case, the matter has not been disposed of and reason for the same be specified.

(vii) Details of offences under which such cases are pending.

(viii) In cases triable by Court of Sessions where cases instituted more than seven years ago and cognizance has already been taken but orders of commitment have not been passed on account of non-furnishing of police papers to the accused, number of cases, reasons for the same and names of the person responsible for the same be furnished, so that this Court, may consider the desirability of taking suitable action against the concerned person by the appropriate authority.

(ix) If delay is caused on account of non-appearance of accused after grant of bail, steps taken by court concerned be indicated, i.e. , whether warrant of arrest issued. In cases such warrants issued but not executed the matter be taken up with the Superintendent of Police who shall see that the same are executed at once.

(x) If warrant of arrest has been issued on account of non-appearance of accused in spite of service of summons, but not executed, the concerned Superintendent of Police, on the matter being brought to his notice, shall see that it is executed immediately.

(xi) Cases in which disposal is being delayed for non-production of accused in court, number of such cases and names of jails where they are lodged be indicated together with reasons for the same.

(xii) If a criminal trial is pending on account of stay order from higher court, designation and station of the officer together with case number in which stay order has been passed be furnished. In case such stay order has been passed by High Court number of the case be furnished by which stay order has been passed.

(xiii) If for any reason, any such criminal trial is pending, reasons with case number be indicated.

(xiv) Reasons for non-disposal of Criminal Revisions/Criminal Appeals be furnished.

(xv) So far as civil matters are concerned, reasons for such pendency together with number of cases, names designation and station of the officer where the case is pending be furnished.

(xvi) All such criminal cases, viz Trials/Appeals/ Revisions and civil cases, viz., Title suits/ Appeals/ Revisions which have remained pending without any rhyme and reason merely because members of bar have been taking adjournments, be taken up on day to day basis by giving top priority even by adjourning other fixed cases and disposal of such cases be reported to this Court every month by the fifteenth day of the following month beginning from the month of March, 2000, that is disposal of such cases in the month of March,2000 be reported by the 15th day of April,2000 and likewise for every succeeding month.

Yours faithfully

Sd /-

ASST. REGISTRAR (ESTT.)

No.2348 / Dated 10.03.2000.

From

Shri N. P. Rout,
Registrar (Inspection & Enquiry),

To

The District & Sessions Judges in the State.

Sub: Submission of quarterly report on visit of jail by the District & Sessions Judges.

Sir,

In inviting a references to the instructions issued under Court's letter No. 10896 dated 08.10.1986 on the above subject, wherein it has been directed to submit report regarding jail conditions twice in a year, I am directed to say that the Court are pleased to further direct all the District & Sessions Judges of the State to form a District committee constituting the District Judge, District Magistrates and Superintendent of police to review the basic minimum standards of health, hygiene and institutional treatment for the prisoners in jails within their respective jurisdictions as instructed in the letter under reference. The said Committee will meet every, quarter and will monitor the situations as aforesaid and submit report to this Court. The Government in Home Department have been moved to impart necessary instructions to all the District Magistrates and Superintendents of police to co-operate the District & Sessions Judges in the matter.

I would, therefore, request you to follow the aforesaid instructions scrupulously and submit quarterly reports to this Court without fail.

Yours faithfully
N. P. ROUT
Registrar (I & E)

No.3284 Dated.11.04.2000

From

Shri N. P. Rout,
Registrar (Inspection & Enquiry)

To

1. The 1st M. A. C. T. -cum-District & Sessions Judge (All),
 2. The Member, IInd M. A. C. T. (S. D), Berhampur
 3. The Member, IInd M. A. C. T. (N. D), Sambalpur.
 4. The Member, State Transport Appellate Tribunal-cum-IIInd M.A.C.T., Cuttack.
- Sub: Supply of Certified copies of awards in M.A.C.T. Cases to the parties concerned on the date, the awards are pronounced.

Sir,

It has been brought to the notice of the court that Certified copies of final awards passed by the Motor Accident Claims Tribunals are not being promptly supplied to the parties concerned resulting delay in making payment of awarded amount to the claimants by the respective Insurance Companies.

The Court, on careful consideration of the matter have been pleased to direct that true copies of the awards duly certified by the Tribunals be supplied to the parties concerned on the date, the awards are pronounced.

I am, therefore, to request that the above instruction may please be brought to the notice of all the Tribunals/ Courts concerned for their information and guidance.

Yours faithfully
N. P. ROUT
REGISTRAR (I & E)

5474(14) dated 13.03.2001

Communicated to all the District & Sessions Judges

HIGH COURT OF ORISSA, CUTTACK

SUO MOTU CRIMINAL REVISION NO. 42 OF 2001

In the matter of a suo motu revision under section 401 read with section 482 of the code of Criminal Procedure against the judgment dated 5.6.2000 passed by Sri Mahalat Sa, J. M. F. C., Khurda in G. R. Case No. 752 of 1994 (T. R. No. 150 of 1999)

State : Petitioner

-Versus-

Yudhisthira Nanda : Opp. Party

For petitioner : Shri P. C. Rout, Addl. Standing Counsel

For Opp.party : None

PRESENT :

THE HONOURABLE THE ACTING CHIEF JUSTICE

R.K. PATRA, A. C. J., This (suo motu) revision at the instance of the learned Sessions Judge, Khurda is directed against the judgment and order dated 5.6.2000 of the learned Judicial Magistrate First Class, Khurda in G.R. Case No. 752 of 1994(T. R.No. 150 of 1999) by which he has acquitted the opposite party of the offences under Sections 279 and 304-A I.P.C.

2. The learned Sessions Judge in course of his inspection of the court of the concerned Magistrate detected that the opposite party was acquitted of the offences under Sections 279 & 304-A I.P.C. because he was not identified as the driver of the offending vehicle. The learned Sessions Judge found that on the day when the

eye witness were examined in court, the opposite party was represented by his lawyer under Section 317 of the Code of Criminal Procedure and accordingly had no opportunity to identify the culprit.

3. I have heard Shri P. C. Rout, learned Additional Standing Council for the state. I did not feel inclined to issue notice to the opposite party because his presence was not necessary for disposal of this case.

4. In order to appreciate the point involved, it would be appropriate to state the prosecution case in brief:

On 18.10.1994 at about 2.30 p. m. one Prabhat Kumar Nayak was returning to his house in a scooter from Spinning Mill, Khurda. Near Brahmani Masani on National High way No. 5 a truck bearing registration No. OSS-991 came from Berhampur side in a high speed and dashed against him. As a result of such accident; he sustained injuries on his person and succumbed to them. The brother of the deceased lodged F. I. R. on the basis of which the police took up investigation. After its completion, charge-sheet was filed against the opposite party to face the trial.

5. The plea of the opposite party was one of denial.

In order to prove its case, prosecution examined five witnesses including the informant as P. W. 3, P. Ws. 1 and 2 are the eye witnesses to the occurrence.

P. W. 4 is a witness to seizure of the offending vehicle.

P. W. 5 is the Investigating Officer. The learned Magistrate recorded order of acquittal holding that the eye witnesses P. Ws. 1 and 2 are silent as to who was driving the offending vehicle.

6. Section 279 I. P. C. deals with rash and negligent driving of any vehicle or riding on a public way in a rash and negligent manner. Section 304-A I. P. C. deals with an offence where death is caused by doing a rash and negligent act, In both the offences, the identification of the offender is essential. The investigating agency therefore in course of investigation has to see if the offender is a known person to the eye witnesses and if not it should take appropriate steps to get the offender identified by them. It is the bounden duty of the learned Magistrate that the

evidence of the eye witnesses is recorded in the presence of the accused so that they would be able to identify him in Court as the culprit.

7. Under section 317 Cr. P. C. the Judge or Magistrate can at any stage of inquiry or trial dispense with the personal attendance of the accused before the Court if he satisfies that his presence is not necessary in the interest of justice. The discretion to exempt personal attendance of the accused should be exercised judicially with care and caution depending upon circumstances of each case or each occasion. Accordingly, when the question of identification of an offender arises in case u/s 279 and 304-A I.P.C., the Judge or Magistrate should see that on the date of the examination of eye witness, the accused appears in Court so that they can get scope to identify him.

8. Here is a case in which the prosecution failed because of the illegality committed by the learned Magistrate in not securing the attendance of the accused on the date when eye witnesses were examined in Court. Had he not exempted the personal attendance of the accused, he would have appeared in Court and the eye witnesses could have got the opportunity to identify him. On careful consideration of the facts and circumstances, I am of the opinion that for illegal exercise of discretion under section 317 Cr.P.C. the case ended in acquittal resulting in miscarriage of justice.

9. Ordinarily, I would have set aside the order of acquittal and remitted the matter for re-trial, but having regard to the fact situation, I am not inclined to adopt the said procedure.

With the aforesaid observations, this revision is dismissed.

Registry is directed to send copy of this judgment to all concerned for their guidance in future.

Sd/-

R.K. PATRA

ACTING CHIEF JUSTICE.

The 16th day of February, 2001/GDS

No. 8446(14) / Dated.10.07.2001

From

Shri N. P. Rout
Registrar (Inspection and Enquiry).

TO

The District & Sessions (All)

Sub: Constitution of a committee in each District consisting of the Superintendent of Police and the Chief District Medical Officer to monitor the attendance of investigating Officers/ Medical officers in Courts.

Sir,

In inviting a reference to item No. 3 of the proceedings of the District Judges' conference 1996, I am directed to say that the Government in Home Department have been pleased to concur in the proposal to constitute a committee in each District consisting of the Superintendent of Police and the Chief District Medical Officers to monitor the attendance of investigating officers/ Medical Officers in courts as desired by Hon'ble the chief Justice.

I am, therefore, to request you to kindly take steps to constitute a committee consisting of S. Ps and C. D.M.Os in your District to monitor the attendance of I.O.s and Medical Officers in the dates fixed for trial.

Yours faithfully

N. P. ROUT
REGISTRAR (I & E)

Enclosure: *Copy of letter No. Ref-4/2001-23445/HS dtd.20.04.2001 forwarded by Additional Secretary to Govt. of Orissa, Home Department, Bhubaneswar*

GOVERNMENT OF ORISSA
HOME DEPARTMENT

No. Ref- 4/2001 23445/HS. Dated, Bhubaneswar, the 20th April, 2001

From

Shri R. N. Kanungo,
Additional Secretary to Government.

To

The Registrar (Admn.),
Orissa High Court, Cuttack.

Sub: Non-attendance of Medical Officers and Investigating Officers on the date fixed for their evidence despite service of summons-Constitution of a Committee.

Sir,

I am directed to invite a reference to your letter No.439 dated 17.1.98 on the above subject and to say that Government have been pleased to concur in the proposal to constitute a committee in each District consisting of the Superintendent of Police and the Chief District Medical Officer to monitor the attendance of Investigating Officers/ Medical Officers in Courts as desired by the Hon'ble Chief Justice.

Yours faithfully

R. N. KANUNGO,

ADDITIONAL SECRETARY TO GOVERNMENT

No. 9656 / Dated 24 08.2001

From

Shri N.P. Rout
Registrar (Inspection & Enquiry).

To

All the District & Sessions Judges of the State.

Sub: Service of summons and Execution of Warrants in Forest and Excise Cases.

Sir,

I am directed to say that it was decided in the High Level meeting held on 1.5.98 under the Chairmanship of Hon'ble Shri Justice A. Pasayat that in view of the heavy burden on the police, the execution of warrants and service of summons relating to Forest and Excise Cases shall be taken over by the respective department in a phased manner i. e. in the first phase in the revenue districts of Cuttack, khurda, puri, Ganjam, koraput, Gajapati, Keonjhar, Dhenkanal, sambalpur and sundargarh. Besides, it was decided that in the second phase the service of summons and execution of warrants in those cases shall be taken over by the respective departments in remaining 20 revenue districts, in the next year.

The Government in Home Department have concurred with the aforesaid proposal and the Court on careful consideration have been pleased to approve the same.

I am, therefore, to request you to kindly send the summons and warrants in cases relating to Forest and Excise Department to the concerned authorities to execute through their departments.

The above instructions may be brought to the notice of the Court's subordinate to you for their information and guidance.

Yours faithfully
N.P. ROUT
REGISTRAR (I & E)

No. 10257(14) / Dated 11.09.2001

From

Shri N. P Rout,
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge.....(All)

Sub: Disposal of the material objects in the court Malkhana in respect of cases instituted prior to three years or more.

Sir,

I am directed to say that the proposal for disposal of Malkhana properties lying in the Court Malkhana in respect of cases instituted relating to the year, 1995 was discussed under Item no. 5 of the District Judges' conference, 2000 and resolved that the exercise for disposal of properties be taken up in respect of cases instituted prior to three years or more subjected to all the conditions and guide lines as enumerated in Court's Circular No.7514 dated 26.06.1981.

I am, therefore, to request that instruction may kindly be issued to all the Criminal Court's Subordinates to you for disposal of properties lying in the Court Malkhana in respect of cases instituted prior to three years or more subject to all conditions and guide lines as enumerated in Court's Circular No. 7514 dtd.26.06.1981 are satisfied and report compliance.

Yours faithfully

N. P. ROUT

REGISTRAR (I & E)

266

No. 10509(14) / Dated 19.09.2001

From

Shri N.P.Rout,
Registrar (Inspection & Enquiry),

To

The District & Sessions Judge (All)

Sub: Supply of judgment in Misc. Case No. 630 of 1998.

Sir,

I am directed to forward herewith a copy of judgment in Misc. Case No. 630 of 1998 in Criminal Revision No. 193/98 for your information and guidance and for communication to all the Criminal Courts Subordinate to you for their guidance in future.

Yours faithfully

N.P.ROUT

Registrar (I &E)

N.B. - C.L. No. 51 dated 03.01.1991
has been modified in view of
this judgment.

No.4620(14) / Dated 05.06.2002

From

Shri B. K. Mishra
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge (All)

Sub: Adoption of uniform pattern of nomenclature for the different Categories of cases being used in High Courts and Subordinate Courts.

Sir,

I am directed to say that the Court have been pleased to direct that the nomenclature of different categories of Cases be changed in the High Court and subordinated courts in accordance with the resolutions adopted in Chief justices conferences of 1996 and the same shall take affect from 1st July, 2002.

Accordingly, in enclosing herewith a copy of the change of the nomenclature of different categories of cases, I am to request that the instructions of the Court may kindly be brought to the notice all the courts subordinate to you and the Secretaries, Local Bar Associations of your Judgeship for their information and guidance.

Yours faithfully
B. K. MISRA
REGISTRAR (I & E)

REPORT OF THE COMMITTEE ON NOMENCLATURES OF CASES EMPLOYED BY HIGH COURTS

In pursuance of the Resolution passed at the chief Justice's conference held in October 1996, this committee was constituted by the Hon'ble Chief Justice of India, on April 1, 1997, to examine the list of nomenclature employed for different types of cases in the High court and to make recommendations for adopting uniform pattern. The committee requested the High Courts to furnish the nomenclatures employed for the different types of cases. In response to the said request the High Courts have intimated the nomenclatures employed for different types of cases in the respective High Courts. After taking note of the said nomenclatures the committee suggests the adoption of a uniform pattern on the lines indicated hereafter.

Classification of cases as Main Cases and Miscellaneous Cases has been examined by the Committee of Five Chief Justices constituted by the Government of India in 1981. The said committee in its report dated August 16, 1982 has classified the matters which can be treated as Main Cases and Miscellaneous cases and has recommended that Miscellaneous Cases may be regarded as equivalent to one Main Case. The said recommendations have been approved by the Chief Justices' conference held in 1983 and the Government of India has introduced in 1986 the said classification and categorization of Main and Miscellaneous Cases see: Report of the Arrears Committee, 1989-90, P-62 Para 3.1 and 3.2)

A. CIVIL PROCEEDINGS

(I) ORDINARY CIVIL PROCEEDINGS (SUBORDINATE COURTS AND HIGH COURTS (APPELLATE SIDE))

<u>NATURE OF PROCEEDING</u>	<u>: ABBREVIATED FORM</u>
1. Civil Suit	: CS
2. First Appeal	
a) First Appeal from Judgment and Decree in suit	: RFA
b) Cross Objections in First Appeal	: CO
c) First Appeal From Orders	: FAO
3. Second Appeals :	
a) Second Appeal from Judgment and Decree	: RSA
b) Appeal from Appellate Order	: SAO
4. Letters Patent Appeal or Special Appeal before Division Bench against judgment or order of Single Judge in appeal or original civil proceeding.	: LPA / Sp.A
5. Revision Petition	: CRP
6. Review Petition	: Review Pet.
7. Reference	: O. Ref.
8. Execution Petition	: Ex. P.
9. Execution First Appeal	: Ex. FA
10. Execution Second Appeal	: Ex. SA
11. Interlocutory Applications in pending suits/ appeals	: IA
12. Miscellaneous Applications e. g. leaves suo as of indigent person, restoration application, condonation of delay, etc.	: CMAPL
13. Transfer Petition under section 24 C. P. C.	: Tr. P. (C)

(II) OTHER CIVIL PROCEEDINGS

<u>NATURE OF PROCEEDING</u>	<u>: ABBREVIATED FORM</u>
1. Writ Petition under Articles 226 and 227 of the Constitution	: WP(C)
2. Appeal before Division Bench against judgment or order of single Judge in a Writ Petition.	: WA
3. Petition for leave to appeal to Supreme Court	: SCLP
4. Procedure under companies Act	
a. Original Petition	: Co. Pet
b. Application in pending proceeding	: Co. Appl.
c. Matters transferred under Section 446(3)	: Co. Case
d. Appeal against judgments/orders in Company Petitions	: Co. App.
5. Proceeding under Banking Regulation Act	: Bkg. P
6. Matrimonial Cases	
a. Suits/ Petitions	: Mat. Cas.
b. References	: Mat. Ref.
c. Appeals	: Mat. App.
d. Revisions under Section 19 of the Family Courts Act	: RP (FAM.CT.)
7. Testamentary and Intestate Cases	
a. Testamentary Cases, e.g. Probate or Letters of Administration etc.	: Test. Cas.
b. Intestate cases, e.g. succession certificates etc	: Intest. Cas
8. Petitions under Guardianship and Wards Act	: Gua. P
9. Land Acquisition Act	
a. Reference	: LA. Ref.
b. Appeals	: LA. App.
10. Rent control Matters	
a. Original Suit/Petition	: RCC
b. First Appeal	: RCFA
c. Second Appeal	: RCSA
d. Revision	: RCRev

<u>NATURE OF PROCEEDING</u>	<u>: ABBREVIATED FORM</u>
11. a. Motor Accident Claims	: MAC
b. Motor Accident Appeals	: MAC. APP
12. a. Election Petitions	: El. Pet.
b. Appeals from judgments in Election Petition	: El. App.
13. Proceedings under Insolvency Act	
a. Main Petition	: IP (M)
b. Applications submitted after adjudication	: IP (Appl.)
14. a. Petitions under Indian Arbitration Act	: Arb. P.
b. Appeals under Indian Arbitration Act	: Arb. A.
15. a. Reference under Insurance Act	: Insurance Ref.
b. Appeals under Insurance Act	: Insurance App.
16. Contempt of Court cases relating to civil contempt	: Cont. Cas (C)
17. Appeals against orders in civil contempt matters	: Cont. App. (C)
18. First appeal against judgments in special jurisdiction cases	: MFA (Name of Act.)
19. Second Appeal from judgments in miscellaneous cases	: MSA
20. Special jurisdiction cases assigned to High Courts e.g. Trust Act, Lunacy Act, Trade & merchandise Act, Trade Marks Act, Copyrights Act, Patents Act and other enactments.	: SP.JC (Name of Act.)

(III) TAXATION MATTERS

<u>NATURE OF PROCEEDING</u>	<u>: ABBREVIATED FORM</u>
1. Income Tax Act.	
a. Reference under section 256 (1)	: ITR
b. Application under section 256 (2)	: ITA
2. Gift Tax Act/ Wealth Tax Act/ Estate Duty Act	
a. Reference to High Court	: GTR/WTR/FDR
b. Application for direction to make a reference	: GTA/WTA/FDA

<u>NATURE OF PROCEEDING</u>	: <u>ABBREVIATED FORM</u>
3. a. Reference under Customs Act	: Cus. Ref.
b. Reference under Central Excise Act.	: CF. Ref.
4. Sales Tax Act.	
a. Reference	: ST. Ref.
b. Application for direction to make a reference	: ST. Appl.
c. Revision	: ST. Rev.
5. Other Tax References Cases	: OTR.
6. Other Tax Cases	: OTC.
7. Other Tax Application	: OT Appl.

(IV) CIVIL ORIGINAL JURISDICTION OF THE HIGH COURTS

<u>NATURE OF PROCEEDING</u>	: <u>ABBREVIATED FORM</u>
1. Civil Suits	: CS(OS)
2. First appeal from judgments in original suits	: FA(OS)
3. Execution Application	: EX. Appl. (OS)
4. Miscellaneous summons e.g., Summons for Judgment, Chambers Summons.	: M.S. (S.J.,C.S. and so on)
5. Notice of Motion.	: N.M.
6. Admiralty Suits.	: Adml. S.

B) CRIMINAL PROCEEDINGS

<u>NATURE OF PROCEEDING</u>	: <u>ABBREVIATED FORM</u>
1. Original Trial	: CrI. Tr.
2. Appeal against judgment/ sentence	: CrI. A.
3. Confirmation case under section 336 Cr. P. C	: Death sentence Ref.
4. Revision	: CrI. Rev. P.
5. Reference	: CrI. Ref.
6. Application under Section 482 Cr. P.C.	: CrI. M. C.

<u>NATURE OF PROCEEDING</u>	<u>: ABBREVIATED FORM</u>
7. Bail Application	: Bail Appln.
8. Other Miscellaneous Application	: CrI. M. Appl.
9. Petition under Articles 226 for Writ of Habeas Corpus and other relief in relation to a criminal proceeding.	: W. P. (CrI.)
10. Proceedings relating to Criminal contempt.	: Cont. Cas (CrI.)
11. Appeals against orders in criminal contempt matters	: Cont. App. (CrI.)
12. Application for leave to appeal under Section 378 Cr. P. C or under the relevant corresponding proceedings.	: CrI. L. P.
13. Transfer Petition for transfer a criminal proceeding.	: Tr.P.(CrI.)

Sd/-
(S.C.AGRAWAL)

CHAIRMAN

Sd/-
(H.B JHAH)
MEMBER

Sd/-
(U.P. SINGH)
MEMBER

Sd/-
(M. SRINIVASAN)
MEMBER

No. 4953(14) / Dated 21.06.2002

From

Shri A. K. Patnaik.
Special Officer (Special Cell)

To

The District & Sessions Judge (All)

Sub: Directions of the Supreme Court in Criminal Appeal No. 535/2000 with Civil Appeal No.536 to 542 of 2000 i.e. in the case of P. Rama Chandra Rao Vrs. State of Karnatak.

Sir,

In continuation of Courts Fax Message No. 4747(14) dt.13.6.2002 I am directed to send herewith a copy of Judgment passed by the Supreme Court in Criminal Appeal No. 535 of 2000 with Civil Appeal No. 536 to 542 of 2000 in the case of P. Rama Chandra Rao Vrs. State of Karnatak published in the supreme Today part 61-2002(3) at page 260 for your information, guidance and for communication to all the courts Subordinates to you.

Yours faithfully

A. K. PATNAIK
SPECIAL OFFICER (SPL. CELL)

No. 4747(14) / Dated 13.06.2002

From

Shri B.K. Mishra,
Registrar (Inspection & Enquiry)

TO

All the District Judges of the State.

Sub: Directions of the Supreme Court in Criminal Appeal No.535/2000 with Civil Appeal Nos.536 to 542 of 2000 i.e. in the case of P. Rama Chandra Rao Vrs. State of Karnataka.

Ref: Court's letter No. 3592(13) dtd.30.5.96/ Court's letter No. 1273(13) dtd.18.2.97 /Court's letter No. 4380 dtd.7.6.1999 /Court's letter No. 9771 dtd.22.9.99.

Sir,

In inviting your kind attention to the letters referred to above regarding the principles enunciated in "Common Cause" Case (1) & (2) and Raj Deo Sharma's Case (1) and (2). I am directed to say that the Apex Court in a seven Judge Constitution Bench Case i.e. in P. Rama Chandra Rao Vrs. State of Karnataka while over ruling the earlier judgments delivered in writ petition (Civil) No. 1128 of 1986 "Common Cause" a registered society through its Director Vrs. Union of India and others and also in Criminal Appeal No. 1045 of 1998 and Criminal Misc. Petition No. 2326 of 1999 arising out of Criminal Appeal No. 1045 of 1998 i.e. Raj Deo Sharma Vrs.. State of Bihar have held that "the Court could not have prescribed periods of limitation beyond which the trial of a Criminal case or a Criminal proceeding cannot continue and must mandatorily be closed followed by an order acquitting or discharging the accused. "Their Lordships have laid down the Following ratios:-

1. The dictum in A.R.Antulay's case is correct and still holds the field.

2. The propositions emerging from Article 21 of the constitution and expounding the right speedy trial laid down as guidelines in A.R.Antulay's Case

adequately take care of right to speedy trial. We uphold and re-affirm the said propositions.

3. The guidelines laid down in A.R. Antulay's case are not exhaustive but only illustrative. They are not intended to operate as hard and fast rules or to be applied like a strait-jacket formula. Their applicability would depend on the fact-situation of each case. It is difficult to foresee all situations and no generalization can be made.

4. It is neither advisable, nor feasible, nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. The time-limits or bars of limitation prescribed in the several directions made in Common Cause (1). Raj Deo Sharma (1) and Raj Deo Sharma (2) could not have been so prescribed or drawn and are not good law. The criminal courts are not obliged to terminate trial or criminal proceedings merely on account of lapse of time, as prescribed by the directions made in Common Cause Case (1), Raj Deo Sharma Case (1) and (2). At the most the periods of time prescribed in those decisions can be taken by the Courts seized of the trial or proceedings to act as reminders when they may be persuaded to apply their judicial mind to the facts and circumstances of the case before them and determine by taking into consideration the several relevant factors as pointed out in A. R. Antulay's case and decide whether the trial or proceedings have become so inordinately delayed as to be called oppressive and unwarranted. Such time-limits cannot and will not be themselves be treated by any Court's as a bar to further continuance of the trial or proceedings and as mandatorily obliging or discharge the accused.

5. The Criminal Courts should exercise their available powers, such as those under sections 309,311 and 258 of Code of Criminal Procedure to effectuate the right to speedy trial. A watchful and diligent trial judge can prove to be better protector of such right than any guidelines. In appropriate cases jurisdiction of High Court Section 482 Cr. P. C. and Articles 226 and 227 of Constitution can be invoked seeking appropriate relief or suitable directions.

6. And lastly, it is clarified that this decision shall not be a ground for re-opening a case or proceeding by setting aside any such acquittal or discharge as is

based on the authority of "Common Cause" and Raj Deo Sharma's case and which has already achieved finality and reopen the trial against the accused therein.

7. I am accordingly, directed to request you that the ratios propounded in the case of P. Rama Chandra Rao Vrs. State of Karnataka as reported in 2002(3) Supreme Today at Page 260 be brought to the notice of all the Subordinate Courts functioning under your control at once for their information and guidance henceforth.

Copy of the judgement is being sent separately.

Yours faithfully
B.K. MISRA
REGISTRAR (I & E)

No. 4750(14) / Dated 17.06.2002

From

Sri B. K. Mishra
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge (All)

Sub: Submission of periodical statements in time by the Sub- ordinate Courts.

Sir,

I am directed to say that while considering the quarterly statements of Civil & Sessions Cases for the 4th quarter,2001 relating to the Judgeship of Ganjam-Berhampur, the Court have been pleased to observe that non- submission of periodical statements in time by any Judicial Officer or District & Sessions Judge of the State shall be a matter to be taken into consideration while assessing performance of such Officer for writing the C.C.R.s.

I am therefore, to request you to please furnish the periodical returns to the Court in time and to impress upon the Sub- ordinate Judicial Officers working under your control for submission of periodical returns in time.

Yours faithfully
B. K. Mishra
REGISTRAR (I & E)

No. 9862 (14) / Dated. 30.11.2002

From

Shri B.K.Dash
Special Officer (Administration)

To

The District and Sessions Judge (All)

Sub: Transfer of original suits valued at more than rupees one lakh to the Fast Track Courts for trial.

Sir,

I am directed to say that the Court are pleased to decide that all original suits valued at more than Rs.1 lakh be transferred to the Fast Track Courts In the stations where such Courts are functioning.

I am, therefore to request that all original suits valued at more than rupees one lakh may be transferred to the Fast Track Courts in the stations where such Courts are functioning under your Control.

Yours Faithfully
B.K.DASH
SPECIAL OFFICER (ADMN.)

No. 10344(14) / Dated. 16.12.2002

From

Sri B.K. Mishra,
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge (All)

Sub: Expeditious disposal of the cases relating to woman Under Trial Prisoners languishing in different Jails of your judgship and submission of report in this respect by end of each month.

Sir,

I am directed to say that the question of holding Jail Adalats, earmarking of First Track Courts and expeditious disposal of the cases of Women Under Trial Prisoners languishing in Jail was under the active consideration of the court for some time.

The Court after careful consideration are pleased to direct that cases relating to Women Under Trial Prisoner languishing in different Jails be tried and disposed of as expeditiously as possible and the subordinate courts should henceforth furnish a certificate each month while furnishing monthly returns that the cases relating to Women Under Trial prisoners have been given priority.

I am accordingly directed to request that the above instructions may be given effect to forthwith and all the Courts working under your administrative control be informed accordingly.

Yours faithfully
B. K.MISHRA
REGISTRAR (I &E)

No. 5855(14) / Dated 04.08.2003

From

Shri B.K.Mishra,
Registrar (Inspection & Enquiry)

To

The District and Sessions Judge..... (All)

Sub: Order dt.5.5.2003 of the Supreme Court of India passed in the petition for special Leave to Appeal (C) 9140 of 2003 regarding surprise check of all the trial courts.

Sir,

In enclosing herewith a copy of order dated 5.5.2003 passed in the petition for Special Leave to Appeal(Civil) 9140 of 2003 by the Supreme Court of India, I am directed to say that the Apex Court has directed that instead of having formal annual or periodical inspections of the subordinate courts, there should be surprise checks of all the courts to find out the irregularities as to non-putting of case records on the due dates of adjournments, non-placing of the charge sheets before the Presiding Officers, non-registration of private complaints and Criminal Misc. Petitions in maintenance cases etc.

In the premises, I am directed to request that the observations of the Supreme Court in Special Leave Petition (Civil) 9140/2003 be strictly followed and report of such surprise checks made by you be submitted to the Court regularly pointing out the irregularities detected if any.

Yours faithfully
B.K.MISHRA
REGISTRAR (I & E)

282

SUPREME COURT
INDIA
NEW DELHI

From

SURESH CHANDRA
REGISTRAR (J-II)

D.NO. 1277/2003/XII-A
DT.8th May, 2003

To

THE REGISTRAR
ORISSA HIGH COURT, CUTTACK (ORISSA).

PETITION FOR SPECIAL LEAVE TO APPEAL(C) NO. 9140 OF 2003

(Ref: Against the final judgment and order dated 5-7-2002 of the High Court of Judicature of Andhra Pradesh at Hyderabad in Writ Petition No.6045 of 2002)

Ch. Venkateshwar Rao

PETITIONER

-VERSUS-

The Registrar (Administration) High Court
of Andhra Pradesh, Hyderabad, A.P. & Anr

RESPONDENTS

Sir.

I am to inform you that the Petition above-mentioned for Special Leave to Appeal to this Court was filed on behalf of the Petitioner above-named from the Judgment and Order above- noted and that the same was dismissed with some directions by this Court on the 5th May, 2003.

As directed, a certified copy of the Order of this Court as contained in the Record of Proceedings, dated 5th May, 2003 in the matter above mentioned is enclosed herewith.

You are requested to kindly place the same before the Hon'ble the Chief Justice of your High Court for information and appropriate order/action.

Please acknowledge receipt.

Encl:- As above.

Yours sincerely,
SURESH CHANDRA
REGISTRAR (J-II)

No.22

Court No.3

SECTION XIIIA

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

(cc 4033/2003)

Petition(s) for Special Leave to Appeal (Civil) 9140/2003

(From the Judgement and order dated 05/07/2002 in WP 6045/02 of The HIGH COURT OF AP AT HYDERABAD)

VENKATESHWAR RAO

Petitioner (s)

VERSUS

REGISTRAR (ADMN.) HIGH COURT, A.P. & ANR

With IA 1 (Appln(s). for c/delay in filing SLP)

Respondent (s)

Date: 05/05/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH

HON'BLE HR. JUSTICE ARUN KUMAR

For Petitioner (s)

Mr. A.T.M. Ranga Ramanjun Sr. Adv

Mr. V. Sridhar Reddy, Adv.

Mr. Abhijit Sengupta, Adv.

For Respondent (s)

UPON hearing counsel the Court made the following

ORDER

Heard the learned counsel for the petitioner.

Delay condoned.

Petitioner was working as a Criminal Bench Clerk of Metropolitan Magistrate Court, Huzurnagar, District Nalgonda in Andhra Pradesh. A departmental enquiry was held against him. After inquiry, it was found that when Ist Additional District and Sessions Judge-cum-Chief Judicial Magistrate, Nalgonda made a surprise visit

to the Court of MunsiffMagistrate and inspected the case records in the Criminal Branch of the Court, he found that several criminal cases were not called by the delinquent on the due dates of adjournment. Many charge-sheets were lying with him without any action having been taken by verifying them and placing them before the Presiding officer and some preliminary registered case records were not sent to the Sessions Court even after committal of the case. During the enquiry, it was pointed out that asmany as 80 charge-sheets were not put up before the Presiding officer within time. Several unregistered private complaints, unregistered criminal miscellaneous petitions in maintenance cases, unregistered maintenance cases and criminal miscellaneous petitions were not called and were not placed before the Presiding Officer. It was also found that as many as 126 final reports were lying without any action having been taken on them. Many such other irregularities were also found.

In our view, considering the findings recorded in the departmental enquiry, the impugned order does not call for any interference.

However, this is an instance where the Registry of the High Court ought to have taken a note of such lapses and ought to have directed Sessions Judge or the Additional Sessions Judge to inspect various courts of the State so that there may be complete control in the management cases which are filed before the Trial Court. It is undoubtedly the function of the Registry of the High Court and therefore, instead of having formal annual or periodical inspection, the Registry must see that occasionally there is surprise check in all courts in the State to find out such irregularities occurring in various Courts.

We order accordingly. Registrar to send copy of this order to all the High Courts for appropriate action, as stated earlier.

This Special Leave Petition is dismissed.

Sukhwinder

(JANKI BHATIA)
COURT MASTER

No. 6475 / Date 28.08.2003

From:

The Special Officer (Spl. Cell),
High Court of Orissa

To

The District & Sessions Judge of the State.

Sub: Implementation of Supreme Court Judgment passed in CrI.M.P Nos. 4201/97, 4105/99, 2600-2601/2000 and 480/2001 and in Writ Petition (CrI.) No.539/86 and 592/87 (Sri Dillip Kumar Basu etc. vs State of West Bengal) and others regarding competition of inquiry by Magistrates into causes of custodial death as envisaged by section 176 Cr.P.C.

Sir,

I am directed to forward herewith a copy of the Judgment dtd.12.10.2001 passed by the Supreme Court of India in Criminal Misc. Petition Nos.4201/97, 4105/99, 2600-2601/2000 and 480/2001 and in Writ Petition (CrI.) No.539/86 and 592/87 (Sri Dilip Kumar Basu etc. vs State of West Bengal and others) for your information and guidance and for communication to and guidance of all the Criminal Courts subordinates to you for their strict compliance.

Yours faithfully

Sd /-

SPECIAL OFFICER (SPL. CELL)

No 7837(17) / Dated 21.10.2003

From

Shri B.K. Mishra.
Registrar (Inspection & Enquiry)

To

1. The District & Sessions Judge-cum-1st M.A.C.T
2. The Member, IInd M.A.C.T (S.D), Berhampur
3. The Member, IInd M.A.C.T (N.D), Sambalpur
4. The Member, S.T.A.T-cum-IIInd M.A.C.T, Cuttack.

Sub: Mentioning in the judgments passed by the claims Tribunals as to the permission in terms of Section 170 of M.V. Act 1988 has been granted to the insurer or not.

Sir,

It has very often come to the notice of the Court that the judgments of claims. Tribunals do not contain the fact as to whether the insurer has taken leave in terms of section 170 of the Motor Vehicles Act, 1988.

While deciding M.A.C.A No. 135 of 2003 (New India Assurance Company Ltd.-vrs-Vivekananda Nisank and another), the court by order dt.4.8.2003 has been pleased to direct that hence forward the claims Tribunal shall mention in their judgment whether permission in terms of section 170 of the Motor Vehicles Act has been granted or not.

In the aforesaid premises, I am directed to request you that the aforesaid judicial direction of the Court be scrupulously followed henceforth.

Yours faithfully
B.K. MISHRA
REGISTRAR (I & E)

287

No 9390 / Dated 17.12.2003

From

Shri D. Chaulia.
Special Officer (Special Cell),

To

1. The Principal Secretary to Government of Odisha,
Home Department, Bhubaneswar
2. The Director General of Police, Orissa, Cuttack.

Sub: Direction of the Apex Court in Criminal Appeal No.508 of 1996 (State of Maharashtra Vrs. Christian Community Welfare Council of India and another) regarding arrest of female accused persons.

Sir,

I am directed to forward herewith a copy of the direction of the Apex Court passed in Criminal Appeal No. 508 of 1996 (State of Maharashtra Vrs. Christian Community Welfare Council of India and another) regarding arrest of female accused persons and to request that a copy of this judgment may kindly be sent to all the prosecuting agencies in the state for their information and necessary action.

Yours faithfully

D. CHAULIA

SPECIAL OFFICER (SPECIAL CELL)

No.2381 (14) / Dated.12.03.2004

From

Shri.B.K. Mishra,
Registrar (Inspection & Enquiry)

To

The District and Sessions Judge (All)

Sub: Observation made on the monthly statements of the Fast Track Courts for the months of September to December, 2003.

Sir,

While reviewing the performance of the Presiding Officers working in fast Track Courts during the above noted period, the Court have been pleased to observe that

(i) The Officers working in the fast Track Courts of the State be asked to devote their time and energy in disposal of cases so that there would be substantial reduction of Sessions Cases pending in a particular Judgeship.

(ii) The Presiding Officers of the Fast Track Courts be intimated that in case they fail to reach the minimum prescribe yardstick prescribed for the fast Track Courts without any sufficient reason or rhyme as per the decision of the Full Court, the same may be viewed seriously resulting in appropriate administrative action as would be decided by the Full Court.

Further, I am directed to request you to transfer good number of Sessions Cases ready for hearing to the file of the Fast Track Courts & to enable them to dispose of 8 Sessions Cases in a month besides disposing of other contested appeals, revisions (both Civil and Criminal) as well as Suits.

Yours faithfully,
B.K. MISHRA
REGISTRAR (I & E)

No. 4705(14) / Dt. 19.05.2004

From:

Shri B.K Patel,
Registrar (Administration)

To:

The District & Sessions Judge (All)

Sub: Revision of Yardstick.

Sir,

In enclosing herewith a copy of the Revised minimum Yardstick fixed for the Judicial Officers, I am directed to intimate that the Judicial Officers who have been assigned both Civil work and Criminal work will devote 50 per cent of their time to Civil work and Criminal work and such devotion of 50 per cent of time to Civil work will be reflected in their out-turn.

Further, the Judicial Officers who do not attain the revised minimum yardstick will be rated Average or Below Average unless they furnish satisfactory explanation for their low out-turn.

I am, therefore, to request you to that the revised yardstick may kindly be brought to the notice of all the officers working within your jurisdiction for their information and guidance.

Yours faithfully,
B.K PATEL
REGISTRAR (ADMN.)

*Superseded vide Court's
notification No.906,
dtd.17.08.2020*

YARDSTICK FOR JUDICIAL OFFICERSA. DISTRICT JUDGES

<u>Nature of cases</u>	<u>Yardstick fixed</u>
1. Special Judge Case (Vigilance)	One in 10 days.
2. Delhi S.P.E. Cases (C.B.I).	One in 7 days
3. Sessions Cases	One in 4 days.
4. Offence under I.P.C. exclusively Tribal by Court Sessions along with Offence under S.C. & S.T. (PA) Act, 1989.	One in 4 days
5. Offence under S.C. & S.T. (P.A) Act, 1989 read with other offences Under I.P.C.	One case in 1 day.
6. Criminal Appeals	Two per day from the decisions of Asst. Sessions Judges throughout the State. Three per day from the decisions of Judicial Magistrates throughout the State.
7. Jail Criminal Appeals (Disposed of on contest)	Two per day from the decisions of Asst. Sessions Judges throughout the state. Three per day from the decisions of the Judicial Magistrates throughout the State.
8. Other Jail Criminal Appeals	Eight per day throughout the State.
9. Criminal Revision	Five Revisions per day
10. Original Suits	One Title Suit in 3 days
11. T.M.S, M.S., & Others Suits	One per day
12. Civil Appeals	(a) One Appeal from Civil Judge (Sr.Divn)/(Jr.Divn.)/Title/Money in one day. (b) One contested rent Appeal one day

- | | |
|---|--------------------------------------|
| 13. Civil Revisions | Five Cases per day. |
| 14. Misc. Appeals | Five Appeals per day. |
| 15. H.R.C. Appeals | Same as Title Appeals/ Civil Appeal. |
| 16. Misc. Cases including Execution Cases. | Five Cases per day. |
| 17. MISCELLANEOUS CASES | |
| a. Cases Under Sec.166 under the Motor Vehicles Act. | One case in one day. |
| b. Cases Under Sec.140 M.V. Act (Contested) | Eight Cases per day. |
| c. M.V. Appeal | Three Appeals per day. |
| d. M.V. Revision | Six Revisions per day. |
| e. Cases under the Employees State Insurance Act. | One case in one day. |
| f. Cases under the Juvenile Justice (Care and Protection of Children Act, 2000) | One case in one day. |
| g. Cases under any other special Act. | One case in one day. |
| h. Cases under N.D.P.S. Act. | One case in two days. |
| i. Misc. Cases U/o.21 Rule 58 C.P.C. | One case in two days. |
| j. Petition U/o. 21 Rule 97 and 99 C.P.C. | One case in two days. |
| k. Petition U/o. 39 Rule 4 CPC. | Eight Cases per day. |
| l. Cases under the C.P.C. day. | Eight Cases per day. |
| m. CrI. Misc. Cases U/s. 408 and 440 Cr.P.C. | Ten cases per day. |

B. CIVIL JUDGE (SENIOR DIVISION)

- | | |
|--|-------------------|
| 1. (a) Contested Suits (T.S) (above 50 thousands) | One in Four days. |
| (b) Contested Suits (M.S.,T.M.S. & OTHER Suits) (above 50 thousands) | One in Two days. |

- | | |
|--|---|
| 2. (a) Contested Suits (T.S)
(below 50 thousands) | One in Three days. |
| (b) Contested Suits (M.S.,T.M.S. &
OTHER Suits)
(below 50 thousands) | One in 1.5 days. |
| 3. Regular Appeals | i) Two Title Appeals per day.
ii) Two Money Appeals per day. |
| 4. Misc. Appeals | Five per day. |

MISC.JUDICIAL CASES

- | | |
|---|---------------------|
| 5. (a) Cases under the Spl. Acts. | Two cases per day. |
| (b) Cases under C.P.C. | Five cases per day. |
| 6. S.C.C. Suits | Five cases per day. |
| 7. Final Decree Proceedings | Five cases per day. |
| 8. Arbitration Cases U/ss. 5, 8, 11,13
20 & 30 of Arbitration Act, 1940. | Two cases per day |
| 9. Essential Commodities (Special
Provisions) Act. | Two cases per day. |

C. ASSISTANT SESSIONS JUDGES

- | | |
|----------------------|-------------------------|
| 1. Sessions Cases. | One case in three days. |
| 2. Criminal Appeals. | Four Appeals per day. |

D. CIVIL JUDGE (JUNIOR DIVISION)

- | | |
|--|--|
| 1. Title Suits. | One suit in three days. |
| 2. Money Suits, T.M.S. and Others
Suits. | One suit per day. |
| 3. Election Cases under the O.G.P.
Act. | The same Yard-stick as prescribed
For money suits (one case per day) |
| 4. S.C.C. Suits. | Five Suits per day. |
| 5. Final Decree Proceedings. | Five cases per day. |
| 6. Misc. Cases | Five Misc. Cases per day. |
| 7. Ex-parte Suits | 15 Suits per day for all |
| 8. Total number of days Devoted to
Judicial work Minus 1/5 th part
thereof. | All the Dist. & Session Judges, All
the Principal Civil Judges (Sr. Divn.)
& Civil Judge (Jr. Divn.) |

E. CONTESTED CRIMINAL CASES FOR JUDICIAL MAGISTRATES

- | | |
|---|-------------------------|
| 1. Chief Judicial Magistrate | 250 Cases per year. |
| 2. S.D.J.M. taking Cognizance | 200 Cases per year. |
| 3. Judicial Magistrate and
S.D.J.M.(not taking cognizance) | 350 Cases per year. |
| 4. Cases U/s. 125 Cr.P.C. | One case per day. |
| 5. Enquiries U/s. 202 Cr.P.C. | Five Cases per day. |
| 6. Petty Offences U/s. 206 Cr.
P.C.(Motor Vehicle) | Fifteen cases per day. |
| 7. Section 55-A of the Orissa Forest
Act, 1972 | Same as Criminal Cases. |
| 8. Cases on admission in Criminal
side (Uncontested) | Fifteen Cases per day. |
| 9. Committal Enquiries | Three Cases per day. |

F. Registrar of Civil Courts and in districts where there is no Registrar, Civil Courts, Civil Judges (Senior Division) functioning as permanent and Continuous Lok Adalats provided they reach the prescribed yardstick/ outturn for the days devotes to Judicial Work.

There will be minimum two sittings per month and the minimum disposal will be as follows

1. Civil Cases - 2 Civil Cases per sitting (Pre Litigation Cases or cases referred to them by Civil Courts).
2. Criminal Cases referred to them by different Criminal Courts -
5 Criminal cases per sitting.

Credit will be given of the Civil Cases and Criminal Cases disposed of in permanent and Continuous Lok Adalats as per the Yardstick prescribes (i.e. 15 cases per day) in the outturn of the respective Judges who have referred the Civil or Criminal Cases to the Permanent and Continuous Lok Adalats.

G. INDUSTRIAL TRIBUNAL

1. Industrial Dispute Cases U/s. 10 & 12 One in three days.
2. I.D. Misc. Cases (Un-contested) Ten Cases per day.
3. Misc. Cases U/s.33 One in one day.
4. Misc. Cases U/s. 33(c) Two in one day.

H. SALES TAX TRIBUNAL

1. Cases of 6 assesses per day.

I. ENDOWMENT COMMISSIONER

1. Under Sec. 25. One in two days.
2. Under Sec.41 One in four days.
3. Under Sec.42 One in four days.
4. Under Sec.44 Two per day.
5. Under Sec. 68 Three cases per Commissioner and five Cases per Asst. Commissioner per day.
6. Under Sec.42 (a) &(b) The Asst. Commissioner will not get any credit.

(Total number of working days per year is to be treated 240 working days.)

No. 7573(14) / Dated 11.08.2004

From,

Shri B.K. Mishra,
Registrar (Inspection & Enquiry)

To

The District & Session Judges of the State(All).

Sub: Observance of the year 2004 as "Arrears Clearance Year".

Ref. - Courts Letter No. 2167 dated 04.03.2004.

Sir,

In inviting your kind attention to the aforementioned Letter , I am directed to say that in the Chief Justice Conference, 2003 it was resolved that the year commencing from 1st January, 2004 be observed all over the Country as the "Arrears Clearance Year". The Court on careful consideration of the aforesaid resolution were pleased to direct that effective steps be taken for reducing the congestion of cases in different subordinate courts of the State by way of improved court management and in the Light of the Judgement rendered by the Hon'ble Supreme Court of India in all India Judges Association Vs. Union of India, 2002(4) S.C.C. 247). Further, the Court are pleased to direct you to take other measures which may facilitate the clearance of arrears in different courts of your Judgeship.

In the aforesaid premises, I am directed to request you to kindly intimate as to what effective steps have been taken by you in reducing the arrears in different courts of your Judgeship

This may please be treated as extremely urgent.

Yours faithfully
B.K. MISHRA
REGISTRAR (I & E)

No. 7624(14) / Date 12.08.2004

From

Shri B.K. Mishra,
Registrar (Inspection & Enquiry)

To

The District and Sessions Judge(All)

Sub: Visit of Chief Judicial Magistrates/ S.D.J.Ms and Cognizance taking Magistrates of outlying stations to the Jail to find out under trial prisoners involved in petty offences and Lodged in jail longer than the period of sentence.

Sir,

In continuation of Courts Letter No. 2020 (14) dt. 03.03.2000 on the above subject, I am directed to say that in view of the resolution adopted under items No. 13(a) of the Last Chief Justice Conference, 2003, the Court, on careful consideration of the matter are pleased to direct that the Chief Judicial Magistrates/ S.D.J.Ms and Cognizance taking Magistrates of outlying stations be instructed to regularly visit the Jails to find out if any under trial prisoner involved in petty offences has been Lodged in Jail for the period Longer than the period of sentence. Besides that the Chief Judicial Magistrates as well as the Presiding Officers working in different Magisterial courts of the State shall henceforth furnish a certificate while submitting quarterly statements that no U.T.P. has been detained in Jail custody for the period Longer than the period of sentence prescribed for the offence.

I am, therefore, to request you that the aforesaid instructions of the Court be communicated to the Judicial Officers working under your Jurisdiction for their strict observance and compliance.

Yours faithfully,
B.K. MISHRA
REGISTRAR (I & E)

No. 1076 / Dated 03.09.2004

From

Shri B.K. Mishra,
Registrar (Inspection & Enquiry)

To

The District and Sessions Judges of the State.

Sub: Declaration of the Chief Judicial Magistrates of the State as Principal Magistrates of the Juvenile Justice Boards by designation instead of by name.

Sir,

In forwarding here with the copy of the notification No.JJ Cell-1/2004/16954/WCD. dated 02.09.2004 issued by the Government of Orissa, Women & Child Development Department, Bhubaneswar on the aforementioned subject, I am directed to request you to kindly communicate the same to the Chief Judicial Magistrates posted in your Judgeship(s).

Yours faithfully,
B.K MISHRA
REGISTRAR (I & E)

Government of Orissa
Women and Child Development Department

No. JJ Cell-1/2004/ 16954 /WCD ; Date 02.09.2004

NOTIFICATION

Whereas the Juvenile Justice Boards were constituted vide Notification No. 19081 dated the 12th September, 2003 and 12487 dated the 28th June, 2004 of the Government of Orissa, Women and Child Development Department, in exercise of the powers conferred by sub-sections (1) and (2) of section 4 of the Juvenile Justice (Care and Protection of Children) Act,2000;

And whereas, the Chief Judicial Magistrates of all the districts were taken as Judicial Magistrates into such Boards by neme;

And whereas difficulties arise to conduct the work of the Board at the time of transfer of such Judicial Magistrates;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (2) of section 4 of the said Act and in partial modification of the Notifications stated above, the state Government do hereby declare that all the Boards so constituted shall consist of the Chief Judicial Magistrates of the Districts by designation instead of by name, along with other members and designate such Chief Judicial Magistrates as Principal Magistrates for the purpose of the said Act.

By order of the Governor
Secretary to Government

No. 8562(14) /dated 14.09.2004

From

Shri B.K. Mishra,
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sir,

I am directed to request you to report henceforth to the under signed over telephone between 10.30 A.M. and 10.50 A.M. the name (s) of Judicial Officer(s) who have not reported to their respective Chambers in court by 10.30 A.M. for being placed before the Hon'ble the Chief Justice.

Yours faithfully

B.K. MISHRA

REGISTRAR (INSPECTION & ENQUIRY)

300

No. 8979(14)/Dated.30.09.2004

From

Shri B.K. Mishra,
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Authorization to Additional Sessions Judges to have power of Sessions Judges
In respect of cases U/S. 116(7), 193,194,209(a), 409 and 449 Cr.P.C. in
view of Orissa amendment of Section 9(3) of the Code of Criminal Procedure,
1973, published in O.G.E. No.807 dated 11.6.2004 (Orissa Act.6 of 2004)
and amendment of First Schedule of the Criminal Procedure Code, 1973.

Sir,

I am directed to forward herewith a copy of the Extraordinary issue of the
Orissa Gazette No.807 dated 11.6.2004 (Orissa Act.6 of 2004) on the above subject
with a request to take appropriate follow up action in the matter and communicate
the same to all the Judicial Officers working in your Judgeship (s) for their
information and guidance.

Yours faithfully
B.K. MISHRA
REGISTRAR (I & E)

301

LAW DEPARTMENT

NOTIFICATION

The 11th June 2004

No. 5969-Legis-The following Act of the Orissa Legislative Assembly having been assented to by the President on the 11th May, 2004 is hereby published for general information.

ORISSA ACT 6 OF 2004

THE CODE OF CRIMINAL PROCEDURE (ORISSA AMENDMENT

ACT, 2001

AN ACT TO AMEND THE CODE OF CRIMINAL PROCEDURE, 1973 IN ITS APPLICATION TO THE STATE OF ORISSA.

Be it enacted by the Legislature of the State of Orissa in the Fifty-third Year of the Republic of India as follows:+

- Short title
1. This Act may be called the Code of Criminal Procedure (Orissa Amendment) Act, 2002.
- Amendment of Section 9
2. In section 9 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), to sub-section (3), the following provisos shall be added, namely:-
- "Provided that notwithstanding anything to the contrary contained in this Code, an Additional Sessions Judge in a district or subdivision, other than the district or subdivision, by whatever name called, wherein the headquarters of the Sessions Judge are situated, exercising jurisdiction in a Court of Sessions shall have all the powers of the Sessions Judge under this Code, in respect of the cases and the proceedings in the Criminal Courts in that district or subdivision for the purposes of sub-section (7) of section 116, sections 193 and 194, clause (a) of section 209 and sections 409 And 449.
- Provided further that the above powers shall not be in derogation of the powers otherwise exercisable by an Additional Sessions Judge or a Sessions Judge under this Code".
- Amedment of First Shedule
3. In the First Schedule to the principal Act, for the existing entries relating to sections 272, 273, 274, 275 and 276 the following entries shall respectively be substituted, namely :-

"Section	Offence	Punishment	Cognizable or non-cognizable	Bailable non-bailable	By what Court triable
1.	2.	3.	4.	5.	6.
272.	Adulterating food or drink intended for sale, so as to make the same noxious	Imprisonment for life, and fine	Cognizable	Non-bailable.	Court of Session.
273	Selling any food or drink as food and drink, knowing the same to be noxious	Ditto	Ditto	Ditto	Ditto
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious	Ditto	Ditto	Ditto	Ditto
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated	Ditto	Ditto	Ditto	Ditto
276	Knowingly selling or issuing from dispensary any drug or medical preparation as a different drug or medical preparation	Ditto	Ditto	Ditto	Ditto

By order of the Governor
H. MOHAPATRA
Principal Secretary to Government

No. 8981(14) / Dated. 01.10.2004

From

Shri B.K. Mishra,
Registrar (Inspection & Enquiry)

To

All the District & Sessions Judges of the State.

Sub: Discontinuance of maintenance of the Register of Warrants of Imprisonment in default of payment of fine (R) 5-A in the court of Sessions specially empowered to try cases instituted under S.C. & S.T. (P.A.) Act and N.D.P.S. Act.

Sir,

In inviting a reference to Courts Letter No. 6815 dated 15.9.1994 as well as Courts Letter No. 5458 dated 27.07.1995, I am to say that the question of maintenance of the Register of Warrants of Imprisonment in default of payment of fine (R) 5-A by the Special courts came up before the Court for consideration.

The Court after careful consideration of the matter have been pleased to direct that the Register(R) 5-A should not be maintained by the Special Courts empowered to try case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Narcotic Drugs and Psychotropic Substances Act and it should be maintained in the courts of all the Chief Judicial Magistrates and the appropriate cases may be dealt with by the Chief Judicial Magistrates as per rule 136(a) of the General Rules and Circular Order (Criminal), Volume-I.

Therefore in partial modification of Courts Circular Letter No. 5458 dated 27.7.1995, I am to request that the modified instructions be strictly followed henceforth and all concerned courts may kindly be informed accordingly.

Yours faithfully,
B.K. MISHRA
REGISTRAR (I & E)

No. 3175 (14)/ dated 30.04.2005

From,

Assistant Registrar (Estt.),
Orissa High Court.

To

The District & Sessions Judge.....(All)

Sub: Regarding declaration and alteration of holiday for the Judgeship.

Sir,

I am directed to say that it has come to the notice of the court that some members of the Bar Association are moving the Court through the District Judge to declare certain working day as holiday on the eve of any auspicious occasion.

The Court after careful consideration of the matter have been pleased to observe that any proposal for declaring a working day as holiday should only be processed by the District Judge if it is rooted by the Bar Association but not by some members of the Bar Association.

Yours faithfully,

Sd/-

ASSISTANT REGISTRAR (ESTT.)

No.7212 / Dated 30.01.2006

From,

Shri K.N. Panigrahy.
Registrar (Inspection & Enquiry)

To

The District and Sessions Judge..... (All)

Sub: Expeditious disposal of the U.T.P. cases.

Sir,

I am directed to say that the matter regarding non-disposal of U.T.P. Cases was discussed under Item No. 2 of the Resolution of the District Judges' conference 2005 held on 24th & 25th February, 2006 and it was resolved as follow.

- a) That the District Judges are also impressed upon to see that the U.T.Ps. are not unnecessarily detained in custody.
- b) The Judicial Officers should owe a duty to examine the cases of U.T.Ps and in appropriate cases such U.T.Ps. Should be released on bail.
- c) In case of non-attendance of I.O./Medical Officer in due date as official witnessed, the C.J.Ms should bring the matter to the notice of the High Court, so that the High Court can take up the matter with their superior authorities.
- d) The CJM should bring the matter to the notice of the High Court in case of irregular holding of monthly meeting between the C.J.Ms and S.P. due to non-availability of S.P. The above resolution passed in the District Judges' Conference, 2005 was under consideration of the Court.

The Court after careful consideration have been pleased to observe that the earlier instructions issued by the Court vide General Letter No. 1 of 1980, Letter No. 10121 dtd. 18.09.1986 and Letter No. 497 (21) dtd. 21.1.1975 be scrupulously followed in future for expeditious disposal of U.T.P. cases and holding of monthly meetings between the S.P. and C.J.Ms. regularly.

I, am therefore, to request you to kindly follow the above instruction of the court meticulously and bring the matter to the notice of the courts subordinate to you for their future guidance.

YOURS FAITHFULLY,
K.N. PANIGRAHY
REGISTRAR (I&E)

306

No. 797(14) / Dtd. 04.02.2006

From

Shri K. N. Panigrahy,
Registrar (Inspection & Enquiry)

To,

All the District and Sessions Judges of the State.

Sub: Resolution No.16577 dated 4.8.2005 by the Commissioner-cum-Secretary to Government of Orissa. Women and Child Development Department regarding enhancement of cost of maintenance @ Rs.250/- per Child per month of the Children below six years termed as deemed orphans residing with their mothers in different institutions both run by Government and N.G.Os.

Sir,

I am directed to forward herewith a copy of resolution No. 16577 dtd. 04.08.2005 passed by the Commissioner-cum-Secretary to Government of Orissa, Women and Child Development Department, Bhubaneswar on the above noted subject for your information and necessary action.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I & E)

Government of Orissa
Women & Child Development Department

....

RESOLUTION

No.II-CW-22/2005- 16577 / WCD, dtd. 04.08.2005

Sub: Provision of Maintenance cost of Children below 6 years termed as deemed orphans residing with their mothers staying in different institutions both run by Government and N.G.Os.

Whereas it has come to the notice of Govt. that some children in the age group of 0-6 years are residing with their mothers in different Short Stay Homes/ Swadhar Homes/ Central Home for Women/ Observation Homes and Special Homes.

And whereas there is a provision under the Orissa Maintenance of Orphanages Rules, 1985 to keep boys below the age of 18 years and girls up to age 25 years in the Orphanages because of infrastructural problem, Lack of medical facilities and insufficient staffs for proper care protection of young children, the management of orphanages do not usually admit the children below 6 years. Moreover, management of children in the age group of 0-6 needs special skills, more care and caution and wherever possible these children should stay with their mother.

Difficulty is also being faced by the management of Short Stay Homes, Central Home for Women & other Homes on the other hand for rearing the infant/ Child along with the destitute mother. Most of the Schemes do not provide for, cost of maintenance of infant/child in the age group of 0-6 in these Homes even though it is in the best interest of the child to be with his/her mother as per Juvenile Justice (Care and Protection of Children) Act 2000.

Government therefore, to obviate the difficulties faced by the management of Short Stay Homes, Central Home for Women and other such type of Homes has been pleased to provide a sum of Rs.250/- (Rupees two hundred & fifty) per child

per month towards maintenance cost for the Children in the age group of 0-6 years residing with their mother inside the above noted Homes as per terms and conditions indicated below treating the concerned children to be "Deemed Orphans". The monthly grant of Rs.250/- so sanctioned per month in favour of the children will be utilized as per the break up on different items as follows (i) Food Rs.200/- (ii) Bedding, Dress, Soap, Oil etc. Rs.-35/- (iii) Medicine -10/- and (iv) Entertainment Rs.5/-.

1. The Orissa State Council for Child Welfare will act as the "Nodal Agency" for disbursement of maintenance cost for the "Deemed Orphans" in the State.

2. The management of Short Stay Homes/ Swadhar Homes/Central Home for Women Observation Home or Special Homes shall intimate the name and address of the child/ children below 6 years residing with their mothers in their institution of the Secretary, Orissa State Council for Child Welfare, Bhubaneswar in the prescribed proforma No.I.

3. The C.D.P.Os of the ICDS Projects shall visits the short Stay Homes/Swadhar Homes/ any other Spl. Homes within their Jurisdiction and furnish a quarterly report to the OSCCW indicating the no of "Deemed Orphans" in each institution residing with their mothers in the prescribed proforma No.II.

(i) On receipt of the names of deemed orphans from different institutions and the list from CDPOs, the OSCCW shall verify and cross check the report and will prepare and submit a list of Children to this Deptt. Along with a annual Budget estimate indicating the amount required for the above purpose.

(ii) Basing on the report of OSCCW the maintenance cost of deemed orphans shall be released in favour of the OSCCW.

4. The OSCCW shall send the maintenance cost to each institution separately in shape of Bank Draft/Cheque in favour of the management of concerned Organization by 10th of every month concerned CDPO who in turn will hand over the same to the management of the concerned institution on the 15th of every month

on the JANASEVA DIVAS. While doing so she will obtain a statement of expenditure for the previous month in the prescribed proforma-II and submit it to OSCCW.

5. The OSCCW shall submit a statement of expenditure to this Deptt. by 20th of every month.

6. After closing of the financial year the funds sanctioned in favour of the OSCCW for the above purpose shall be audited by the Department Auditors for submission of U.C. by 1st June, of the year.

ORDER: Order that Resolution be published in Orissa Gazette.

By Order of the Governor

S.B. AGNIHOTRI

Commissioner-cum-Secretary to Govt.

PROFORMA-I

FOR SANCTION OF MAINTENANCE COST FOR DEEMED ORPHAN CHILDREN TO BE SUBMITTED BY THE MANAGEMENT OF THE INSTITUTIONS TO THE O.S.C.C.W.

1. Name of the Institution and full address.
(Specify the Category of the Home)
2. Whether run by Govt. or N.G.O.
3. Name of the I.C.D.S. Project under whose Jurisdiction the institution is located.
4. No. of deemed orphans residing with their mothers.

Sl. No	Name of the child along with name of mother and address	Present age of the child	Sex	Period from which the child staying with the mother
1.	2.	3.	4.	5.

1. Further certified that the Scheme under which the mother is provided Shelter in this institution does not have any financial provision towards maintenance of her child in the age group of 0-6 years.

Place

Date

Signature of the Superintendent/
President /Secretary of the Institution

Place

Date

Signature of the Superintendent/
President /Secretary of the Institution

PROFORMA - II

INFORMATION TO BE SUBMITTED BY THE C. D. P.O. IN RESPECT OF SWADHAR HOMES/ SHORT STAY HOMES ETC. FOR SANCTION OF MAINTENANCE COST IN FAVOUR OF DEEMED ORPHANS TO THE O.S.C.C.W

1. Name of the Enquiring Officer and designation.
2. Name of the Institution.
3. Name of the Short Stay Homes/ Swadhar Homes.
4. No. of Deemed Orphans continuing in the Institution with their mothers.

Sl. No.	Name of the child along with the name of mother & address	Present age of the child	Sex	Period from which the Child is Staying with the mother.
1	2	3	4	5

Place

Signature & Seal of Inquiring Officer

Date

PROFORM-III

STATEMENT OF EXPENDITURE TO BE SUBMITTED BY THE PRESIDENT/SECRETARY/
SUPERINTENDENT/ OFFICER-IN-CHARGE OF THE HOME FOR THE MONTH OF

1. Name of the Institution and address :
2. No. of Deemed orphans Continuing during the month :
3. Total amount received During the month :
4. Total expenditure cut of The funds received for the purpose :

Signature of the President/
Secretary/Superintendent/
Officer- in-Charge of the Institution.

No. 956 / Dated. 08.02.2006

From

Shri K. N. Panigrahy,
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge, Cuttack.

Sub: Conducting of surprise check as per the observation of the Hon'ble Supreme Court made in order dated 5.5.2003 passed in Special Leave Appeal (C) 9140 of 2003.

Ref: Your Letter No. 1724 dt.5.5.2004.

Sir,

With reference to your Letter on the above subject, I am directed to inform you that, the Court after careful consideration of the matter have been pleased to observe that, besides conducting regular inspection as prescribed in the G.R. & C.O. (Civil and CrI,), Volume-I, the District and Sessions Judge should make surprise check as per the instructions imparted in circular Letter No.5855 (14) dated 4.8.2003 to find out the irregularities in respect of the matters enumerated under the Circular Letter referred to above.

In the above premises, I am directed to request you that surprise check of different subordinate courts as envisaged in the Letter in question should be made regularly in addition to the inspection prescribed under G.R. & C.O. (Civil and Criminal), Volume-I henceforth and report thereof be submitted to the court for consideration.

Yours faithfully,
K.N. PANIGRAHY
REGISTER (I & E)

Copy forwarded to all the District & Sessions Judges of the State for information and guidance vide Memo no. 957(13) dated 08.02.2006.

No. 4774(14) / Dated. 14.07.2006

From

Shri K. N. Panigrahy,
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge (All)

Sub: Service of summons, notices and other judicial processes etc. in Civil, Criminal and Commercial matters on the persons residing outside the geographical Limits of the Republic of India.

Sir,

I am directed to enclose herewith the copy of the Letter No.T4410/24/2006 dtd. 23.03.2006 received from the Joint Secretary to Govt. of India, Ministry of External Affairs, New Delhi on the above subject and to say that the Court have been pleased to direct that all requests for service of summons, notices, other documents and other Judicial process etc. be directly submitted to the Ministry of Home Affairs in Criminal Law matters and the Ministry of Law and Justice in the Civil and Commercial matters hence forth.

I am, therefore, to request you to bring the aforesaid direction to the notice of all concerned of your Judgeship for their information and guidance.

Yours faithfully,
K.N. PANIGRAHY
REGISTRAR (I & E)

GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS

T 4410/24/2006

New Delhi, the 23th March 2006

1. The Minister of External Affairs has been receiving summons, notice and other judicial processes etc. in criminal and civil or commercial matters from the various courts in India for servicing the same on the persons residing outside the geographical limits of the Republic of India.

2. It is reiterated here that service of judicial processes outside India, including summons/show cause notice etc. is regulated by reciprocal arrangement with foreign countries, finalized and notified by the Ministry of Home Affairs, as per statutory provisions in the Criminal Procedure Code (Section 105). In the absence of such notified arrangements, the question of service of judicial processes outside India is required to be examined and decided by the Ministry of Home affairs, in view of the relevant Indian Municipal Laws.

3. As per Allocation of Business Rules of the Government of India, the Ministry of Home Affairs is the nodal Ministry and Central authority for seeking and providing the mutual legal assistance in criminal law matters. The Ministry of Home Affairs receives all kind of such requests, examines and takes appropriate action.

4. Similarly, the cases pertaining to civil and commercial matters are required to be taken up with the Ministry of Law & Justice, as that Ministry performs all the above mentioned functions, with regard to civil laws matters as per Allocation of Business Rules of the Government of India. The Ministry of Law & Justice finalize and notifies treaties and arrangements with others countries as per the relevant statutory provisions in the Code of civil Procedure.

5. It is therefore requested that all requests for seeking assistance from a foreign country including the service of all kinds of judicial processes or other documents be directly submitted to the ministry of Home Affairs in criminal law matters and to the Ministry of Law and Justice in the civil and commercial matters.

6. It is requested that the information contained in the above paras may also kindly be suitably brought to the notice of the judicial authorities under your jurisdiction.

(R.R. Dash)
Joint Secretary to the
Government of India

To

The Registrar, Supreme Court of India.

The Registrars of High Courts.

317

No. 5637 (14) / Dated.21.08.2006

From

Shri K. N. Panigrahy,
Registrar (Inspection & Enquiry)

To

The District & Session Judge (All)

Sub: The plight of Juvenile Delinquents'- The Hon'ble port - folio Judge the concerned district shall oversee the condition and functioning of the remand/ observation homes established under Juvenile Justice (Care and protection of Children) Act, 2000.

Sir

I am directed to say that in the Chief Justice Conference, 2006 under item No. 22, It was resolved that the Chief Justices may nominate a High Court Judge to oversee the condition and functioning of the remand/ observation homes established under Juvenile Justice (Care and protection of Children) Act., 2000.

The Court, on carefully consideration of the matter, have been pleased to observe that the Hon'ble Port-folio Judge of the concerned district shall oversee the condition and functioning of the remand/observation homes established under Juvenile Justice (Care & Protection of Children) Act,2000 and submit periodical report to the Hon'ble Chief Justice in every six months.

I am, therefore, to request you to bring the above observation of the Court to the notice of all concerned of your Judgeship.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I & E)

318

No. 8296(14) / Dated 04.12.2006

From

Shri K. N. Panigrahy,
Registrar (Inspection & Enquiry)

To

The District and Session Judge (All)

Sub: Establishment of C. I. D., Police Station and declaration of the Office of the S.P., C.I.D., C.B. as a police Station in the State of Orissa for the purpose of investigation of Offences taken over by the C. I. D.

Sir,

In enclosing herewith a copy of office Order No.422/ C.I.D(R) dt. 23.10.2006 received from the I.G. of Police, C. I. D., C.B., Orissa, Cuttack along with a copy of Home Department Notification No.41110/HS dtd. 20.9.2002 on the above subject, I am directed to say that the Government of Orissa, Home Department, Bhubaneswar has declared the Office of the Superintendent of Police, C. I. D., Crime Branch, Orissa, Cuttack as a Police Station, which shall within its Jurisdiction, include the entire area of the State of Orissa and be known as C. I. D. Police Station for the purpose of investigation of Offences taken over by the C.I.D.,

I am, therefore, to request you to kindly bring this matter to all the judicial Officers working under your control for their information and necessary action.

Yours faithfully,
K.N. PANIGRAHY
REGISTRAR (I & E)

Orissa Police
Criminal Investigation Department
Cuttack.

OFFICE ORDER No.422/CID(R) dt. 23.10.2006

Govt. of Orissa vide Notification No.41110/HS, Dt. 20.9.2002 has established a CID Police Station and declared the Office of the SP, CID, CB as a Police Station. The Jurisdiction of Police Station extends to the entire state of Orissa. Officer in charge of this Police Station is the Supdt. of Police, CID. The Police Station so notified shall become fully functional w.e.f the date of issue of this order.

The following procedure shall be observed for functioning of the Police Station.

REGISTRATION OF CASE

- i) The CID, CB may register cases directly on its own on the basis of a complaint which reveals a cognizable offence. However, for registration of such case, a preliminary enquiry may be conducted by a CB Officer, If such enquiry reveals a prima-facie material for registration of a cognizable offence, the case shall be accordingly registered by giving a new serial number.
- ii) The CID can also register Regular Case (RC) by taking charge of the case from any Police Station. In that case, the original FIR shall be reproduced as the FIR of the CID. The case shall be assigned a new Sl. No. as CB Case No/Year.
- iii) CID shall also register cases directly on the basis of order of High Court and Supreme Court. The case shall have a separate SL. No. as CB. Case No/Year.
- iv) CID shall also register cases in compliance to the direction of the Govt. and Director General of Police/Addl. DGP or IGP, CID, CB. The case shall have a separate Sl. No. as CB Case No/Year.

MALKHANA

The CID shall maintain a Malkhana where in all the exhibits seized by the investigating officer(s) shall be kept to be produced before the court as and when required. An officer shall be designated as Malkhane in-charge.

A Malkhana Statement shall be forwarded monthly by the officer-in-charge to the court officer who will deal with it as laid down in P.M. Rules 307 and 324-328.

Where there is no court officer, this statement will be forwarded to the magisterial clerk, who shall deal with it as laid down in P.M. rules 327 and 328.

GENERAL DIARY

The Police Station shall have a General Diary. An Inspector will remain in charge of General Diary and shall note all important matters connected with the investigation of all cases taken charged by CID, CB, at all relevant hours.

In General Diary, the following shall be entered

- a) Registration of case.
- b) Arrival Custody and forwarding of arrested persons at CID Hdqrs.
- c) Arrival and departure of suspects for the purpose of interrogation.
- d) Arrival and departure of raid party along with arrested persons and investigating officers.

The General Diary shall be put up to the S.P every day.

CRIME INDEX

A Crime Index in the prescribed Proforma shall be maintained in the police station where in serial and distinctive number of the cases registered shall be entered.

FINAL FORM

On completion of investigation, Final Form shall be submitted with its own serial number.

RECEIPT AND DESPATCH REGISTER

Receipt and Despatch registers shall be maintained in the prescribed proforma. The Receipt Register should have the following parts.

1. Order from Court and Magistrate
2. Departmental Order
3. Inquiry Slips
4. Miscellaneous

In addition to the above the following registers shall be maintained in prescribed proforma.

1. Arrest Register
2. Interrogation Register
3. Process Register
4. Prisoner feeding Register
5. Cash book

This has the approval of DGP

I.G of Police, CID, CB,
Orissa, Cuttack

322

GOVERNMENT OF ORISSA
HOME DEPARTMENT

NOTIFICATION

No. 41110 /HS Dated 20.09.2002

In exercise of powers conferred by Clause (s) of sec.2 of the Code of Criminal Procedure 1973 (Act 2 of 1974) the State Government do hereby declare the office of Superintendent of Police, CID, Crime Branch, Orissa, Cuttack as a Police Station, which shall, within its jurisdiction, include the entire area of the State of Orissa and be known as CID, Police Station for the purpose of investigation of offences taken over by the CID.

By order of the Governor
SANTOSH KUMAR
Principal Secretary to Government

No 318(14) / Dated 11.01.2007

From

K.N. Panigrahy
Registrar (Inspection & Enquiry)

To

The District and Session Judge (All)

Sub: Maintenance and cleanliness of court Hazats.

Sir,

It has come to the notice of the Court through the National Human Rights Commission, New Delhi that one Baghanbar Pattnaik, Human Rights Activist made a complaint regarding unhealthy condition of Court Hazats at Bhubaneswar and Puri. This matter was under consideration of the Court.

The Court, on careful consideration of the matter, have been pleased to direct that all the District and Sessions Judges of the State should take effective steps in order to maintain the Court Hazats Clean and hygienic and also to provide toilets and drinking water facilities to the under trial Prisoners henceforth.

This is for your information and necessary action.

Yours faithfully,
K.N. PANIGRAHY
REGISTRAR (I & E)

No. 602(14) / Dated. 24.01.2007

From,

Shri K.N. Panigrahy,
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge (All)

Sub: Constitution of a state Level Task Force on Child Labour to over see the implementation of different provisions of Child Labour (Prohibition and Regulations) Act, 1986 and Programmes /Schemes relating to Child Labour.

Sir,

I am directed to forwarded herewith a copy of letter under Memo No. 8764 (106) dt.3.10.2006 received from the Commissioner-cum-Secretary to Govt. of Orissa, Labour and Employment Department, Bhubaneswar regarding constitution of state Level Task Force on Child Labour to oversee implementation of different provisions of Laws and Programmes/ Schemes relating to Child Labour for your information and necessary action.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I & E)

Government of Orissa
Labour and Employment Department

RESOLUTION

Bhubaneswar, dated the 03.10.2006

No. LL-II-CHL-2/2005 8762/LE, The Labour & Employment Department Resolution No. OLL-V-24/2004-5274/LE, Bhubaneswar, dated 23rd June, 2004 is hereby partially modified as follows –

The issue of Child Labour has been identified and recognized as a critical area of social concern. Child Labour both in hazardous and non-hazardous sectors expose children to physical hardship & mental torture. At times, it turns out to be more severe in cases of domestic Child Labour, where they work outside the view of the public. Such social injustice shall have to be dealt firmly by Government and other Non- Governmental organizations working on the subject, and the victim has to be given adequate protection against any abuse/torture.

Pursuant to the directives issued by the Hon'ble Supreme Court of India vide order dated 10th December, 1996 in civil writ Application No.465/86, Sri M.C. Mehta Vs. State of Tamilnadu and others, a detailed survey was conducted in the state in the year 1997 to identify the Child Labours both in hazardous & non-hazardous occupation/ processes and to take appropriate action for their eventual rehabilitation. The survey has identified 2.15 lakh Child Labour engaged in both hazardous and non-hazardous occupations/process.

The State Government in Labour and Employment Department have been pursuing a proactive policy in order to prevent Child Labour and rehabilitating them through various methods after identification. The National Child Labour Project is one of the agenda of the National Policy on Child Labour whereby children identified and released from hazardous and non-hazardous occupations/ processes would be rehabilitated and mainstreamed to formal education system.

In order to eradicate the problem of Child Labour in different sectors of employment with special emphasis on domestic Child Labour, it has been

considered expedient to constitute a State Level Task Force on Child Labour, with the following persons, to oversee implementation of different provisions of laws and Programmes/ Schemes relating to Child Labour.

- | | |
|--|------------------|
| 1. Padmashree Tulashi Munda | - Chairperson |
| 2. Secretary, L& E, Department | - Member |
| 3. Labour Commissioner, Orissa | -Member Convener |
| 4. Smt. Kasturi Mahapatra | - Member |
| 5. Director, State Labour Institute, Bhubaneswer | - Member |

The State Level Task Force, Constituted as above, shall meet from time to time to take stock of implementation of different laws/ Schemes/Programmes relating to eradication and rehabilitation of child Labour. The Task Force may visit such places/establishments / house hold etc, as deemed proper, to assess the condition of the Child Labour and recommend remedial measures, if any.

The posts of Chair Person and member of the Task Force will be honorary. The Chair Person & non-official member of the Task Force shall be entitled to Travelling allowance, daily allowance and the sitting fees, which has been finalized in consultation with Finance Department. Besides Secretarial support and vehicular support, as and when necessary, will be provided by Labour and Employment Department.

Order - Ordered that the Resolution be published in the Orissa Gazette and copies thereof shall be forwarded to all Departments of Government/ All Heads of Departments / All Collectors.

By Order of the Governor

J. Panda

Commissioner-Cum-Secretary to Government

327

No. 3097(14) / Dated.05.05.2007

From

Shri K.N. Panigrahy,
Registrar (Inspection & Enquiry)

To

The District and Session Judge,.....(All)

Sub: Authorization of the Police Officers of the State Government for filling
Complain against the Notary Public to take cognizance of offence

Sir,

In enclosing herewith a copy of letter No. 16260 dt.23.3.2007 received from the Deputy Secretary to Government of Orissa, Home Department, Bhubaneswar on the above subject. I am directed to say that the Government of Orissa in Home Department has authorized the Inspector-in-Charge or Sub- Inspector-in-Charge of all the Police Stations to Lodge Complaints against any of the Notary Public appointed in the State.

I am, therefore, to request you to kindly communicate the matter to all the judicial Officers working under your control for their information and guidance.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I& E)

328

GOVERNMENT OF ORISSA
HOME DEPARTMENT

No. 16260 / Bhubaneswar, dated the 23.03.2007

From,

Sri B. Behera,
Deputy Secretary to Government

To

The Director General & Inspector General of Police, Orissa, Cuttack.

Sub: Authorisation of the Police Officers of the State Government for filling
Complain against the Notary Public to take cognizance of offence.

Sir,

I am directed to say that, Govt. after careful Consideration have been pleased to authorize the Inspector-in-Charge or Sub-Inspector-in-charge of all the Police Stations as the case may be of the state to lodge complaints against any of the Notary Public appointed in the State as per Section-13(i) of the "Notaries Act, 1952".

I would, therefore, request you to kindly issue instruction to all concerned to follow the above instructions scrupulously. This may be given effect from the date of issue of this instruction.

Yours faithfully,

B. BEHERA

DEPUTY SECRETARY TO GOVERNMENT

No. 4342(14) / Dated.02.07.2007

From

Sri K.N. Panigrahy,
Registrar (Inspection & Enquiry)

To

The District and Sessions Judge (All)

Sub: Suggestion made by the Chairman, Central Adoption Resource Agency for expeditious disposal of cases relating to adoption/ guardianship of Children Living in different institutions.

Sir,

I am directed to say that on the request of the Chairman, Central Adoption Resource Agency on the above subject, the matter for expeditious disposal of cases relating to adoption/guardianship of Children Living in institutions within two months from the date of filling of the application as per direction of the Hon'ble Supreme Court in the case of L.K.Pandey Vrs. UOI (Writ petition (Civil), No. 1171 of 1982) passed on 6th February, 1984, was under active consideration of the court.

The Court, on careful consideration of the matter, have been pleased to direct that the letter No. 17-27/2700- CARA dt.22.5.2007 of the Chairman of CARA i.e. the Central Adoption Resource Agency, New Delhi be circulated amongst the officers of the Subordinate Judiciary for their information and guidance.

I am, therefore, to enclose herewith the copy of the above letter of the Chairman of CARA for your Information and guidance and communication to all the Judicial Officers of your Jurisdiction for their information and guidance.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I&E)

No. 5136 / Dated.31.07.2007

From

Shri K.N. Panigrahy,
Registrar (Inspection & Enquiry)

To

The Principal Secretary to Govt. of Orissa,
Home Department, Bhubaneswar.

Sub: For issuance of instructions to the Collectors and Superintendents of Police to attend the monthly Senior Officers meeting regularly and visit the Jails quarterly.

Sir,

It has come to the notice of the Court during the time of inspection of the Court of the District and Sessions Judge. Puri on 1.12.2006 that Senior Officers meeting and visit of jails as prescribed by the Court in letter Nos.497 dt. 21.1.75 Circular Letter No.8487, Dt. 13.9.93. C.L.NO.5348 dt.31.7.96, C.L. No. 9081 dt. 17.10.98. C.L. No. 10896 dt.8.10.86 and C.L.No. 2348 dt. 10.3.2000 (Copies enclosed for reference) have not been held regularly due to non-availability of the District Magistrate & Collector and the Superintendent of Police concerned.

The Court on careful consideration of the matter have been pleased to observe that the Govt. of Orissa in Home Department be moved to impart necessary instruction to the District Magistrate and Collectors and the Superintendents of Police of the districts to attend regularly the monthly meeting of the Senior officers comprising of the District Judge. C.J.M. , D.F.O and public prosecutor and also to Cooperate with the District and Sessions Judge of the district in the matter of quarterly visit of jails in order to review the basic minimum standards of health, hygiene and institutional treatment for the prisoners in jails within their respective Jurisdiction.

I am, therefore to request you to kindly issue appropriate instruction to all the Collectors and Superintendent of police of the state to regularly attend the monthly meeting with the District Judge and to Co-operate him at the time of quarterly visit of jails.

This is for your information and necessary action.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I & E)

No. 6806(14)/ Dated 29.09.2007

From

Shri B.P. Parija
Registrar (Judicial)

To

The District & Sessions Judge..... (All)

Sub: Release of U.T.P.s. on execution of personal bond who have been charged with the offences punishable by imprisonment for less than seven years but are in jail custody for more than one year or two years in the light of Section 437 Cr. P.C.

Sir,

In enclosing herewith a copy of order No.7 dt. 14.8.2007 passed in W.P.(C)9086 of 2003 (Mrinalini Padhi Vrs. State of Orissa & others), I am directed to request you to communicate the above order of this Court to all the criminal Courts under your Jurisdiction for their information and necessary action.

Yours faithfully,

B.P. PARIJA

REGISTRAR (JUDICIAL)

Enclosure: Copy of Order No.7 Dt.14.8.2007 passed In W.P. (C) 9086/2003.

HIGH COURT OF ORISSA

W.P. (C) No. 9086 of 2003

Mrinalini Padhi Vrs. State of Orissa & others

Order No. 7 Dated 14.08.2007

Heard Learned counsel for the parties.

This is a public interest Litigation filed in the year 2003 by an Advocate of this Court to Protect the Interest of under trial prisoners.

The Learned counsel who appears in person drew the attention of this Court to various Judgments of the Hon'ble Supreme Court which has developed a vibrant prison jurisprudence which is throbbing with concerns for human right.

She referred to one such judgment rendered in the case of Hussainara Khatoon and others v. Home Secretary, State of Bihar, Patna, AIR 1979 SC 1360 Laying down certain principles which were followed in subsequent Judgment in the case of "Common Cause" a Registered Society through its Direction V. Union of India and others, (1996) 4 SCC 33. Learned counsel refers to, relying on the principles in those judgments a list of under-trail prisoners in whose favour orders of bail have been granted but who are still in custody on account of their not being able to furnish the sureties.

In Hussainara Khatoon's case (supra).Hon'ble Justice P.N. Bhagwati. (as his Lordship then was) speaking for the Bench has deprecated this practice of granting bail on the basis of furnishing surety. The Learned Judge has strongly disapproved the present system of bail in paragraph-3, which is set out below.

"Now one reason why our legal and judicial system continually denies justice to the poor by keeping them for long years in pretrial detention is our highly unsatisfactory bail system. It suffers from a property oriented approach, which seems to proceed on the erroneous assumption that risk of monetary loss is the only deterrent against fleeing from justice. The code of Criminal

Procedure, even after its re-enactment, continues to adopt the same antiquated approach as the earlier Code enacted towards the end of the last century and where an accused is to be released on his personal bond, it insists that the bond should contain a monetary obligation requiring the accused to pay a sum of money in case he fails to appear at the trial. xx xx.”

Learned Judge has given certain direction in para-4 of the judgment that those persons, in whose favour bail was granted on conditions of furnishing surety bond, but they fail to furnish the same may be released on bail by furnishing personal bond (this direction is at para-4, page 1363 of the report). In view of this, the learned counsel submits that the persons in the list have not been released due to their inability to provide surety bond/cash deposit.

Therefore, this Court directs all the Superintendents of jails in this State to furnish a list of under-trial-prisoners, who are still in custody despite the bail orders having been granted in their favour. Such lists from all the jails located in different parts of the State are to be given to the concerned Criminal Court which shall pass fresh orders of bail in respect of those persons on furnishing personal bond and by imposing such conditions in the light of Section 437 Cr. P.C. which should not be an impediment for their release on bail.

In that case the Hon’ble Supreme Court gave the following directions:

“Where the offences under IPC or any other law for the time being in force for which the accused are charged before any criminal court are punishable with seven years or less, with or without fine and if the trials for such offences are pending for two years or more and the accused concerned have not been released on bail but are in jail for a period of one years or more, the criminal court concerned shall release the accused on bail or on personal bond to be executed by the accused and subject to imposing of suitable conditions, if any, in the light of Section 437 CrPC.” (Para 4(1)(c) at page 35 of the report).

This Court also directs that the under-trial prisoner who are in jail custody for more than the period of sentence prescribed for the offence in which he is an accused should be released by the criminal court on bail on furnishing bond in terms of the direction given by the Supreme Court in the case of Hussainara Khatoon and others V. Home Secretary, State of Bihar, Patna, reported in AIR 1979 SC 1377.

This Court further directs that this order be circulated to all the criminal courts of the state as well as all the Superintendents of jails of the State by the Registrar (Judicial) of this Court, So that the Criminal Courts may pass appropriate orders for bail.

This may also be brought to the notice of all the Magistrates/ Jails Superintendents who may gave information to allthe accused person about their right to be released on bail, where an accused has been in custody for more than period of sentence prescribed for the offence in which he/she is an accused.

The Superintendents of Jails are also to furnish the list of under trial prisoners who are in custody for more than the period prescribed under Section 167 Cr.P.C.and where charge sheet has not yet been filed. The aforesaid list shall be furnished within a month from the date of receipt of this order to the concerned Criminal Court which shall thereupon pass orders of bail in respect of those persons on furnishing personal bond and by imposing such conditions in the light of Sections 437 Cr.P.C. which should not be an impediment for their release on bail.

This Court further directs the Superintendents of Jails to prepare a list of all under trial prisoners who have been charged with the offences punishable by imprisonment for less than seven years, but are in custody for more than one year; or for more than two years in the event they are charged with offences punishable with seven years or less, with or without fines, and if the trials for such offences are pending for two years or more and the accused concerned have not been released on bail but are in jail for a period of one year or more, the criminal court concerned shall release the accused on bail or on personal bond to be executed by the accused

and subject to imposing suitable conditions, if any, in the light of Section 437 of the Cr.P.C.

We are passing the aforesaid directions in view of the decision of the Supreme Court in the case of "Common cause" a Registered Society through its Director v. Union of India and others, reported in (1996) 4 SCC 33.

A free copy of this order be supplied to the learned counsel for the State for necessary compliance.

Urgent certified copy of this order be granted on proper application.

A.K. Ganguly, CJ

I. Mohanty J

No. 8891 / Dated.21.12.2007

From

K.N. Panigrahy,
Registrar Inspection & Enquiry

To,

The District and Sessions Judge (All)

Sub: Trial of cases of mentally ill & insane prisoners Languishing in different jails and Mental Hospitals of the State.

Sir

I am to state that as per order No.7 dtd. 14.08.2007 passed in O.J.C. 2006 of 1996 (Sheela Barse Vrs Union of Indian) all the Sessions Judges were requested to visit the jails with in their jurisdiction and submit reports regarding the condition of mentally ill and insane prisoners in the jails along with the stage of cases in connection with which they are detained in the jails including their suggestions for remedial measures.

While considering the said reports received from all the District and Sessions Judges of the State, the Court have been pleased to direct that all the District and Sessions Judges should follow the directions of Hon'ble Supreme Court of India passed in W.P (Cr.) No.296/2005 with W.P (Cr) No. 18/06, which was forwarded to all the District Judges vide Court's circular letter No. 8000(14) dtd. 21.11.2007 and also to follow the provisions of Chapter XXV of the Cr.P.C along with relevant provisions the Mental Health Act,1987 and the state Mental Health Rules, 1990 during the inquiry and trial of Mentally ill and insane prisoners Languishing in jails and psychiatric Hospitals.

I am, therefore to request you to strictly follow the aforesaid direction of the court and also communicate the same to all the judicial officers working under your Jurisdiction for their information and guidance.

Yours faithfully,
K.N. PANIGRAHY
REGISTRAR (I & E)

No. 92(14)/ Dated. 05.01.2008

From:

Sri K.N. Panigrahy
Registrar (I & E)

To,

The District & Sessions Judges(All)

Sub: Implementation of the provision of "Plea Bargaining "contained in Chapter XXI-A of the Cr.P.C. and informing the accused about such provision while issuing summons.

Sir,

I am directed to say that in the proceedings of the meeting of the District Judges and C.J.Ms. with Hon'ble the Chief Justice and other Hon'ble Judges of this Court held on 13th May, 2007 under item No. 4, it was resolved that "the trial courts while issuing summons in appropriate cases should inform the accused about the provision of "Plea Bargaining". It is further resolved that the accused persons should be informed through remand counsel appointed by the State Legal Services Authority about the availability of "Plea Bargaining" in appropriate cases. The trial courts should motivate the accused persons more particularly under trial prisoners to take advantage of the provision in order to achieve good result. The Registry is directed to circulate to the Sessions Judges copy of the notification defining socio-economic offences which are excluded from the perview of "Plea Bargaining".

Sub section (1)(b) of Section 265-A envisages that Plea Bargaining does not apply where such offence affects the socio-economic conditions of the Country.

The Govt. of India, Ministry of Home Affairs, New Delhi in exercise of the powers conferred under sub section (2) of Section 265-A of the Cr.P.C. had already issued the notification in S.O. No, 1042(II) dt. 11.7.2006 in which the Central Govt. Have determined the offence affecting the socio-economic condition which are excluded from the perview of "Plea Bargaining".

The Court, on careful consideration of the matter, have been pleased to concur with the resolution passed under Item No. 4 of the aforesaid proceeding and directed to implement the same soon.

I am, therefore, to enclose herewith the copy of the notification in S.O. No. 1042(II) dt. 11.7.2006 issued by the Govt. of India, Ministry of Home Affairs published in The Gazette of India: Extraordinary, PT-II Sec-3(ii) dt. 11.7.2006 for your information and guidance and also to communicate to all the Judicial Officers working under your jurisdiction for their information and guidance.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I &E)

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 11th July, 2006

- S.O. 1042 (II)-In exercise of the powers conferred under sub section (2) of Section 265A of the Code of Criminal Procedure, 1973, the Central government hereby determine the offences under the following laws for the -----being in force which shall be the offences affecting the socio-economic of the country for the purposes of sub-section (1) of Section 265A of the said Act, namely,
- (i) Dowry Prohibition Act, 1961
 - (ii) The commission of Sati Prevention Act, 1987
 - (iii) The Indecent Representation of Women (Prohibition) Act, 1986
 - (iv) The Immoral traffic (Prevention) Act, 1956
 - (v) Protection of women From Domestic Violence Act, 2005
 - (vi) The Infant Milk Substitutes, Feeding Bottles and infant foods (Regulation of Production, Supply and Distribution)Act, 1992
 - (vii) Provisions of fruit Products order, 1955 (issued under the Essential Commodities Act, 1955)
 - (viii) Provisions of Meat Food Products Order, 1973 (issued under the essential Commodities Act, 1955)
 - (ix) Offences with respect to animals that find place in schedule I and part II of the Schedule II as well as offences related to altering of boundaries of protected areas under Wildlife (Protection)Act, 1972
 - (x) The schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
 - (xi) Offences mentioned in the Protection of Civil Rights Act, 1955
 - (xii) Offences listed in Sections 23 to 28 of the Juvenile Justice (Care and Protection of Children) Act, 2000
 - (xiii) The Army Act, 1950
 - (xiv) The Air Force Act, 1950
 - (xv) The Navy Act, 1957
 - (xvi) Offences specified in Sections 59 to 81 and 83 of the Delhi Metro Railway(Operation and Maintenance)Act,2002
 - (xvii)The Explosives Act, 1884
 - (xviii) Offences specified in Sections 11 to 18 of the Cable Television Networks (Regulation) Act, 1995.
 - (xix) Cinematograph Act, 1952

No. 174(14)/ Dated. 08.01.2008

From

Sri K.N. Panigrahy
Registrar (I & E)

To,

The District & Sessions Judges,.....(All)

Sub: Visit of jails by the District & sessions Judges once in every month and at times surprise visit also be made by them to find out the conditions of jails and of the inmates.

Sir,

I am directed to say that in the meeting of the District Judges and C.J.Ms with Hon'ble the Chief Justice and other Hon'ble Judges of this Court held on 13th May, 2007 under Item No. 9(a), the matter of conditions in jail was discussed and it was disclosed that although instructions have been issued by this Court in Circular Letter No. 10896 dt. 8.10.86 and Circular Letter No. 2348 dt. 10.3.2006 from time to time, but periodicity of jail visit has not been strictly maintained. The jail visit reports submitted by the District Judges and the Members of the District Committee consisting of the District Judge, the District Magistrate-cum-Collector and the Superintendent of Police disclosed that overcrowding in jail is the main problem in all over the State, besides that absence of medical officers, Pharmacist, technicians, Probation Officers and scarcity of water are the other problems.

Therefore, it was resolved under Item No. 9(a) of the aforesaid proceedings of the meeting that "the District Judges should make visit to the jails one in every month and at times make surprise visit to find out the conditions of jails and of the inmates. The Govt. should be moved to issue necessary instructions to the jail authorities to permit the District Judges to make surprise visits."

The Court on careful consideration of the matter have been pleased to concur with the resolution passed under item No. 9(A) of the aforesaid proceedings of the meeting and to direct that the same be implemented soon.

I am, therefore, directed to request you to strictly follow the above instruction of the Court henceforth.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I &E)

No. 176 / Dated 08.01.2008

From

Sri K.N. Panigrahy
Registrar (I & E)

To,

The Principal Secretary,
Govt. of Orissa, Home Department,
Bhubaneswar.

Sub: Visit of jails by the District & Sessions Judges once in every month and at times surprise visit also made by them to find out the conditions of jails and of the inmates.

Sir,

I am directed to say that in the meeting of the District Judges and C.J.Ms with Hon'ble the Chief Justice and other Hon'ble Judges of this Court held on 13th May,2007 under Item No. 9(a), the matter relating to conditions in jail was discussed and it was resolved that:

"The District Judges should make visit to the jails once in every month & at times make surprise visit to find out the conditions of jails and of the inmates. The Govt. should be moved to issue necessary instructions to the jail authorities to permit the District Judges to make surprise visits."

The Court, on careful consideration of the matter have been pleased to concur with the resolution passed under Item No. 9(a) of the aforesaid proceeding and to direct that the same be implemented soon.

I am, therefore, directed to request you to take appropriate steps by issuing instructions to the jail authorities to permit the District Judges of the State to make surprise visits to the jails and also the steps taken in this regard may kindly be intimated to this Court.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I & E)

No. 185(14)/ Dated.08.01.2008

From:

K.N. Panigrahy
Registrar (I & E)

To,

The District & Sessions Judges(All)

Sub: Verification of Observation /Remand/ Special Homes by the District & Sessions Judges.

Sir,

I am directed to say that in the meeting of the District Judges and C.J.Ms with Hon'ble the Chief Justice and other Hon'ble Judges of this Court held on 13th May, 2007 under Item No. 9(b), the matter, the condition of Observation/ Remand/ special Homes was discussed. According to Court's Circular Letter No. 5637(14) dt. 21.8.2006, Hon'ble Judges of this Court had visited the different Observation/Special Homes like (1) Observation/Special Home at Rourkela (2) Tapoban, Khandagiri, Bhubaneswar& (3) at Berhampur. The following common problems were found by Their Lordships.

1. Inadequate accommodation.
2. Insufficiency of allotment of funds sanctioned for each juvenile in conflict with law per day;
3. Inadequate medical facilities.
4. Non-production of Juvenile in conflict with law before the Juvenile Justice Board.
5. Inadequacy of Probation Officers.
6. Delay in disposal of cases of the juveniles in conflict with law; and
7. Inadequacy of facilities for education etc.

Therefore, it was resolved under Item No. 9(b) of the said proceedings that "the conditions of Jail/Remand Homes should be verified constantly & lapses noticed be intimated to the High Court by the district Judges".

343

The Court, on careful consideration of the matter have been pleased to concur with the resolution passed under Item No. 9(b) of the said proceeding and direct that the same be implemented soon.

I am, therefore, to request you to meticulously follow the direction given above henceforth.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I &E)

No. 428/ Dated. 17.01.2008

From:

Sri K.N. Panigrahy
Registrar (I & E)

To,

The Additional Secretary,
Govt. of Orissa, Home Department,
Bhubaneswar

Sub: Measures taken for improvement of prisons and status of U.T.Ps. and expeditious disposal of their cases.

Ref: Your Letter No. 555021 dtd. 22.11.2007 & D.O Letter No. 4/6/2005 PRP&P dt.25.10.2007 of Hon'ble the Chairperson, National Human Rights Commission.

Sir,

In inviting reference to Home Department letter and the D.O. Letter received from the Hon'ble Chairperson, National Human Rights Commission addressed to Hon'ble the Chief Minister of Orissa on the subject regarding the problems of the under trial prisoners referred to above, I am directed to say that on the letter of the Hon'ble the Chairperson, NHRC addressed to Hon'ble the Chief Justice of this Court on the self same subject, a reply in Court's Letter No. 8160 dt. 29.11.2007 (Copy enclosed for your reference) had already been sent to N.H.R.C., New Delhi.

In the meantime, in Court's letter No. 5086(14) dt. 28.7.2007, "the Report and plan of Action of Plea Bargaining" prepared by Hon'ble the Chief Justice of this Court has been circulated to all the District & Sessions Judges of the State and also to the Bar Associations with request to follow the guidelines contained therein for speedy implementation of Chapter XXI-A of the Cr.P.C. and for expeditious disposal of cases of under trial prisoners and to reduce congestion in jails. This Court in Circular letter No. 92(14) dt. 5.1.2008 also imparted instructions to the trying

Magistrates to motivate the under trial prisoners to take advantage of the "Plea Bargaining."

Further all the District & Sessions judges have been directed in Court's circulars Letter Nos. 174(14) dt. 8.1.2008 & No. 185(14) dtd.8.1.2008 to make monthly visit and surprise visit to the jails remand /Special Homes under their jurisdiction to find out the conditions of jails of the inmates and lapses noticed be intimated to the High Court.

Besides that Hon'ble portfolio Judges of this Court have been pleased to oversee the condition and functioning of the Remand/Observation Homes established under the Juvenile Justice (Care & Protection of Children) act, 2000 in every six months.

It is worthwhile to mention that the judgment of this Court dt. 14.8.2007 in W.P. (C) No. 9086/2003 (Mrinalini Padhi Vs. state of Orissa & Others) relates to release of accused on personal bond, the Supreme Court judgment rendered in W.P.(C) No. 559/94 of 13.4.2006 (R.D. Upadhyay Vrs. of A.P. & others) giving priority in disposal of cases of women prisoners whose children are in prison and the Judgment of the Apex Court passed in W.P.(Crl.).No. 296/2005 with W.P.(Crl) 18/2006 prescribing procedure for disposal of the cases of mentally ill and insane prisoners have also been communicated to all the District & Sessions Judges of the State for their information and strict guidance.

This is your information and onward communication to the National Human Rights Commission, New Delhi.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I &E)

No. 676(14)/ Dated. 28.01.2008

From

K.N. Panigrahy
Registrar (I & E)

To,

The District & Sessions Judge,.....(All)

Sub: Issuance of direction regarding strike and agitation made by the Members of different Bar Associations of the State, locking the court premises thereby preventing the Judicial Officers, staff and the litigant public from entering into the Court premises.

Sir,

With reference to the subject cited above I am directed to say that the Court, while expressing deep concern in the matter, have been pleased to observe as follows:-

“The Full Court notices with grave concern that recently in connection with the so called agitation by the Advocates unfortunate steps are taken to lock the Court premises and to prevent the Judicial Officers and the members of the staff from entering into the Court premises. Even the members of the litigant public are also prevented from entering into the Court.

The Full Court condemns such action in unequivocal terms and hopes that such incidents will not be repeated in future.

In the event such incidents are repeated in future, the concerned District Judge, where such incident takes place, shall immediately take the assistance of the District Police Administration to ensure that normal functioning of the Court is not disturbed and at the same time he shall immediately report the matter to this Court.

XX

XX

XX

XX

I am, therefore, to request you to meticulously follow the above directions of the full Court in the event such incidents occur in future and also to communicate this to all the Subordinate Courts under your jurisdiction for their information and guidance.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I &E)

No. 1245(14)/ Dated 18.02.2008

From

K.N. Panigrahy,
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge (All)

Sub: Instructions regarding use of Mobile phones by hardened prisoners for committing further crime like extortion.

Sir,

I am directed to enclose herewith the copy of circular letter issued by the I.G of Prisons & D.C.S., Orissa, Bhubaneswar on the aforementioned subject vide memo No. 34355 dtd. 7.11.2007 addressed to all senior Superintendents/ Superintendent/ Jailors of Circle Jails, District Jails, Special Jails and sub-Jails of the State, for your information and also for communication to all the Judicial Officers under your jurisdiction for their information.

Yours faithfully

K.N. PANIGRAHY

REGISTRAR (I & E) I/C

OFFICE OF THE INSPECTOR GENERAL OF PRISONS & DIRECTOR CORRECTIONAL
SERVICES, ORISSA, BHUBANESWAR.

No.34355 / Bhubaneswar, dated the 7th November, 2007

CIRCULAR

From:

Shri V. Thiagarajan, I. P.S.
Inspector General of Prisons &
D.C.S., Orissa, Bhubaneswar.

To.

All Sr. superintendents of Circle Jail (by name)/
Superintendents all Dist, Jails/ Special Jails/
Jailor-cum-Supdt. Of Special Sub-Jail and Sub-Jails.

Sub: increasing use of mobile phones by hardened prisoners for committing further crime like extortion.

Sir,

The Hon'ble Chief Minister and Home Minister has always expressed his deep concern about the use of mobile phones in Orissa jails by criminals for committing extortion and organizing further violent crime like Bank dacoity etc. In every Jail it is well known to the Jail Superintendent and his watch and ward staff as to who are the hardened criminals. The number is negligible compared to every prison population. On an average the number may be around only 10 in every jail except perhaps the Circle jails and some of the larger district jails. In any case the number of such dangerous prisoners may not exceed 20 to 25 per jail. Such prisoners always come to adverse notice to the jail Supdt. And his subordinate staff at one time or another. Needless to say, the Jailor-cum-Supdt and watch & ward staff have to keep such dangerous prisoners, under intensive surveillance so that they do not plan and execute further crime while inside the jail, if they do commit crime while in Judicial custody, nothing can be more shameful for the Prison Deptt.

Because that would defeat the very purpose of sending up someone committing crime in the society, into the jail.

2. In fact the prime duty of the Jailor is to discipline every prisoner from the very beginning. That is why all the elaborate provisions in the Jail Manual have been prescribed such as parade, drill, punishment including putting fetters and handcuffs etc. on clearance from Courts. No doubt they, being in judicial custody, the courts and the magistracy should be kept informed and permission obtained in appropriate cases.

3. Maintenance of strict discipline, imposing rigorous imprisonment as ordered by the Convicting Court and at any cost preventing commission of further crime inside the jail are the prime and exclusive duty and responsibility of the jail Supdt. and his staff.

4. In this context, increasing instances of use of mobile phones by non Criminals in different jails of Orissa for the purpose of continued commission of crime such as running an extortion racket. It is definitely sure symptom of the collapse of the jail administration. This has been repeatedly, noticed by many Supdts. of Police who have brought to the notice of the Government and the D.G.& I.G of Police. The Print and the Electronic Media have also been reporting such incidents from time to time without any appreciable improvement in the over-all situation.

5. ever since my taking over I have been repeatedly drawing the attention of the Jail Supdts. to this worrisome trend. In fact, in one particular instance the local Police was constrained to take strict legal action against the jail staff involved in procuring under false identity and passing out of a mobile phone to one such prisoner.

6. But I find that despite all these steps, there has been no improvement in the situation. Once again I would urge upon all the Jails Supdts. to enforce strict discipline among the prisoners. Where necessary they will keep the district Magistrate and the Superintendent of Police informed. Suitable entries should be

made in the Prison Records, extracts of which have to be sent to the P.Ps and A.P.Ps and to the office of the Director of prosecution so that they may strongly oppose the bail petitions and other interlocutory/ appellate matters in respect of those prisoners.

7. They should file confidential and periodical report to the Prisons Directorates regarding the conduct of these dangerous prisoners so that the Prisons Directorate can send Senior Officer to take stock of the situation on the ground and take such other measures as deemed fit in each such case in appropriate cases, the Jail Supdt. should bring it my personal notice.

8. In future use of mobile phone by prisoners, particularly, dangerous prisoner will entail stringent disciplinary action, not only against the conniving/ defaulting Jail watch and ward staff, but also against the supervisory ranks including Supdt. himself.

9. The receipt of this letter should be acknowledged by return of post.

Inspector General of
Prisons & D.C.S., Orissa

No. 2609(14)/ Dated. 07.04.2008

From

Sri K.N. Panigrahy
Registrar (I & E) I/C

To

The District & Sessions Judge..... (All)

Sub: Issuance of guidelines to the special Judge (CBI), Special Judge (Vigilance) & Addl. Special Judge (Vigilance). etc. to preclude unwarranted adjournments and avoidable delays in trial of cases under Prevention of Corruption Act, 1988.

Sir,

I am directed to say that the matter regarding issuance of guidelines to the Special Judge (CBI), Special Judge (Vig.) and Addl. Special Judge (Vig.) to preclude unwarranted adjournments and avoidable delays in trial of cases under the Prevention of Corruption Act, 1988 in the light of the D.O. Letter of the Hon'ble Chief Justice of India was under the active consideration of the Court.

The Court, on careful consideration of the matter have been pleased to direct that the trial of cases under the Prevention of Corruption Act, 1988 be held on day-to-day basis without any deviation in order to preclude unwarranted adjournments and avoidable delays for speedy disposal of such cases.

In enclosing herewith a copy of D.O. Letter dtd. 20.06.2007 of the Hon'ble Chief Justice of India addressed to Hon'ble the Chief Justice of Orissa High court I am to request that the aforementioned instructions may be brought to the notice of all the Judicial Officers of your Judgeship for information and guidance.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I & E) I/C

K.G. Balakrishnan
Chief Justice of India

5 Krishna Menon Marg,
New Delhi - 110011

20th June, 2007

Dear Chief Justice,

The 2nd Administrative Reforms Commission, In Its 4th Report titled "Ethics in Governance", has, Inter alia, recommended as under:

- a) A legal provision needs to be introduced fixing a time limit for various stages of trial. This could be done by amendments to the Cr.P.C.
- b) Steps have to be taken to ensure that judges declared as Special Judges under the provisions of the Prevention of corruption Act give primary attention to disposal of cases under the Act. Only if there is inadequate work under the Act, should the special Judges be entrusted with other responsibilities.
- c) It has to be ensured that the proceedings of courts trying cases under the Prevention of Corruption Act are held on a day-to-day basis, and no deviation is permitted.
- d) The Supreme Court and the High Court may lay down guidelines to preclude unwarranted adjournments and avoidable delays.

The Prime Minister has desired that the recommendations be examined and implemented expeditiously. The High court may, therefore, consider the recommendations, for laying down guidelines, with particular reference to Parts (c) and (d) above, as desired by Government of India.

With regards.

Yours sincerely
K.G. BALAKRISHNAN

Hon'ble Shri A.K. Ganguly,
Chief Justice,
High Court of Orissa,
Orissa (Cuttack)-753002.

No. 4453 (100) / Dated. 06.05.2008

From

G. Behera,
Addl. Dy. Registrar (J &E)-cum-
State public Information Officer.

To

The State Asst. Public Information Officer.

Sub: submission of Annual Report 2007-2008 (from 1.4.02007 to 31.3.2008) u/s
25 of the Right to information Act, 2005.

Sir,

I am directed to say that Section 25(2) of the right to Information Act, 2005 provides that Each Department shall, in relation to the Public Authorities within their Jurisdiction, Collect and provide such information to the State Information Commission to prepare the report under this section and comply with requirements concerning the furnishing of that information and keeping of records for the purposes of this Section.

No information relating to your station has yet been received for the year 2007-2008.

I am, therefore, to request you to kindly submit the required information in the prescribed Format (Copy enclosed) by 10.05.2008 by Fax message, positively, for forward transmission of the same to the Addl. Secretary, Home Department, Bhubaneswar for information and necessary action.

I am, further to request you to kindly submit the required information in the prescribed Format for the each year on or before 10 April of that year to enable the High court to supply the same to the appropriate Department in time, henceforth.

Yours faithfully,

G. BEHERA

Addl. Registrar (J & E)-cum-
State Public Information Officer

ANNUAL REPORT ON THE IMPLEMENTATION OF RIGHT TO INFORMATION ACT,
2005

Name of the Department/ Other Public Authority

No. of applications received up to 31 st March, 2008		Total	Total No. of requests disposed off			Appeals made before 1 st Appellate Authority		Charges Collected under this Act				Recommendation if any*
By O.A.P.I.O	By Secretariat Information Cell (in case of a Govt. Deptt. Only)		No. of Applications provided with information	No. of Applicants denied access to information	Total disposal	NO. of appeal received	No. of appeals disposed off	Cash (i)	Treasury challan (ii)	Court fee (iii)	Total	
1	2	3 (1+2)	4	5	6 (4+5)	7	8	9				10

*Recommendations in conformity with the section 25(3) (g) of right to information Act, 2005 may be furnished in narrative form in separate sheets.

No. 4515(14)/ Dated.09.05.2008

From:

Sri K.N. Panigrahy
Registrar (I & E)

To,

The District & Sessions Judge,.....(All)

Sub: Strictly adherence of instructions of this Court issued in G.L.1 of 1986 (Criminal) read with G.L.1 of 1993 (Criminal) and Court's Circular Letter No. 6806 (14) dt. 29.9.2007 in order to release of prisoners languishing in different jails for minor offences punishable up to 2 years of imprisonment.

Sir,

It has brought to the notice of the court that in order to combat with the overcrowding in Tihar Central Jail, the Delhi High Court, directed release of nearly 600 inmates languishing in the jail U/s- 107 & 151 of Cr.P.C by furnishing a personal bond of Rs. 2000/- Keeping an eye of the overcrowding seen in most of the Jails of the State, the matter for releasing of prisoners languishing in different jails for minor offences punishable up to two years of imprisonment was under the consideration of the Court.

The Court, on careful consideration of the aforesaid matter, have been pleased to direct that the instructions of this Court issued in G.L. 1 of 1986 (Criminal) read with G.L. 1 of 1993 (Criminal) and in Court's circular Letter No. 6806(14) dt. 29.9.2007 be meticulously followed in order to prevent overcrowding and congestion in jails.

I am, therefore, to request you to communicate this to all the criminal courts under your jurisdiction for their information and guidance.

Yours faithfully
K.N. PANIGRAHY
REGISTRAR (I & E) I/C

No.4808 (14)/ Dated. 19.05.2008

From:

K.N. Panigrahy
Registrar (I & E)

To,

The District & Sessions Judge.....(All)

Sub: Supply of data and insight to the members of the Task force namely Dr. Amir Ullah Khan, Dr. Arnab Hazra and Mr. Bibhu Prasad Mohapatra to develop a methodology for the Judicial Impact Assessment of various laws passed by the parliament.

Sir,

In enclosing herewith a copy of Letter No. 18433 dated 8.4.2008 received from the Joint Secretary to Government of Orissa, Home department, Bhubaneswar along with a copy of D.O. Letter No. J-12020/3/2008-JR of the Joint Secretary, Government of India, Ministry of Law and Justice (Department of Justice), New Delhi addressed to the principal Secretary, Home Department, Government of Orissa. I am directed to say that a team of Task Force comprising of Dr. Amir Ullah Khan, Dr. Arnab Hazra and Mr. Bibhu Prasad Mohapatra under the Chairmanship of Justice M. Jagannadha Rao, Retired Judge, Supreme Court have been set up by the Government of India to develop a methodology for the Judicial Impact Assessment of various laws passed by the Parliament which generate additional cases for courts and adding to the work load of the Judicial system. This exercise shall provide quick justice and reduce the backlog of cases.

I am, therefore, to request you to kindly cooperate the members of the aforesaid team of the Task force in order to provide the specific data and their insight as and when required by the said team of Task force.

Yours faithfully,
K.N. PANIGRAHY
REGISTRAR (I & E) I/C

358

Government of Orissa
Home Department

No 18433 /Bhubaneswar, dated the 8th April, 2008

From

Shri L.D.Sahoo
Joint Secretary to Government

To

The Additional secretary to Government
Law Department

The Registrar General
Orissa High Court, Cuttack

Sub: Visit of the task force for development of Methodology for the Judicial Impact assessment of various Laws passed by the parliament.

Sir,

Inviting reference to the above captioned subject, I am directed to enclose a copy of the D.O. Letter No. J.12020/3/2008-JR dated 13.03.2008 of Joint Secretary, Government of India, Ministry of Law and Justice, Department of Justice and request that a team of officers with rich experience may kindly be chosen so as provide necessary feed-back to the delegation as and when they visit the state in this connection.

Yours faithfully

Sd/-

Joint Secretary to Government

D.O No. J. 12020/3/2008-JR

RAMESH ABISHEK
Joint Secretary

GOVERNMENT OF INDIA
MINISTRY OF LAW & JUSTICE
(DEPARTMENT OF JUSTICE)
Jaisalmer House,
26, Man Singh road,
NEW DELHI-110 011
March 13, 2008

Dear Shri Mishra,

A task force under the chairmanship of Justice M. Jagannadha Rao, retired Judge, Supreme Court, has been set by the government to develop by a methodology for the Judicial Impact Assessment of various laws passed by the Parliament which generate additional cases for Courts adding to the work-load of the Judicial System. This exercise is being done for providing quick justice and reduces the backlog of cases.

2. With the above objective in view, studies are being conducted as per the directions of the Task force. The India Development Foundation (IDF) has also been asked to conduct studies on the Judicial Impact of new legislations. In this connection, a team comprising Dr. Amir Ullah Khan, Dr. Arnab Hazra and Mr. Bhibhu Mohapatra will be meeting you soon for your cooperation on gathering data and insight to conduct the study.

3. I shall be grateful if you could kindly instruct your concerned officers to share the data and their insight with the members of this team. They will be meeting you with the details of the specific data required in selected districts and police stations in your state.

Yours sincerely,
RAMESH ABHISHEK

Shri Tarun Kanti Mishra
Principal Secretary (Home)
Government of Orissa
BHUBANESWAR.

No.7278 (6)/ Dated. 22.08.2008

From

K.N. Panigrahy
Registrar (I& E) I/C

To,

The District & Sessions Judge, Subdargarh, Keonjhar, Sambalpur,
Mayurbhanj, Bolangir and Dhenkanal.

Sub: Expeditious disposal of the cases by the respective Principal Magistrates of
the Juvenile Justice Boards.

Sir,

I am directed to invite reference to the News Item published in the daily newspaper "The Samaj" dtd. 19.8.2008 at page-12 regarding the incident that took place at Rourkela Observation Home and Special Home meant for the temporary reception and rehabilitation of Juvenile-in-conflict with law. The court after careful consideration of the matter have been pleased to direct that all the Principal Magistrates of the Juvenile Justice Boards of the districts of Sundargarh, Keonjhar, Sambalpur, Jharsuguda, Bargarh, Deogarh, Mayurbhanj, Bolangir, Sonapur and Dhenkanal be impressed upon to expedite the inquires of the Juvenile-in-Conflict with law who are there in the Observation Home at Rourkela and to conclude their cases within a period of four months and to report compliance for being placed before the Court for consideration.

This matter should be treated as most urgent.

Yours faithfully,
K.N. PANIGRAHY
REGISTRAR (I & E) I/C

361

No 7474(14) / Dated 01.09.2008

From

K.N .Panigrahy,
Registrar (I & E) I/C

To

The District & Sessions Judge(All)

Sub: Orders dt. 14.7.2008 and dt. 8.8.2008 passed by Hon'ble Supreme Court of India in Writ Petition (Crl.) No. 68 of 2008 (Lalita Kumari Vs. Govt. of U.P. & Others) regarding registration of F.I.R. by the Police

Sir,

I am directed to enclose herewith the copies of orders dt. 14.7.2008 and dt. 8.8.2008 passed by Hon'ble . Supreme Court of India in Writ Petition (Crl.) No. 68 of 2008 (Lalita Kumari Vs. Govt. of U.P. & Others) on the above subject and to say that the Court have been pleased to direct you to communicate the above directions to all the Magistrates under your jurisdiction for their information and strict observance.

Yours faithfully,

K.N .PANIGRAHY

REGISTRAR (I & E) I/C

Extract of Order Dtd. 14.07.2008 & 8.8.2008 passed in W.P.(Cr.) No. 68 of 2008
by the Supreme Court of India.

UPON hearing counsel the Court made the following
ORDER

By order dated 14th July, 2008, we issued notices to the Chief Secretaries of all the States and Union Territories and Director Generals of Police/ Commissioners of police, as the case may be, to show cause as to why the directions enumerated therein be not given by this Court, Notices were sent to the aforesaid authorities by the Supreme Court Registry by fax and it was mentioned in the notices that the order has been put on the website of the Supreme Court of India so that they may file responses without loss of time. The order was put on the website of the Supreme Court of India, as directed by this Court.

It appears that notices have been served upon the Chief Secretaries of all the States and Union Territories and all the Director Generals of Police/ Commissioners of Police, as the case may be but, in spite of that, it is pathetic state of affairs that only two States, viz., States of Uttar Pradesh and Arunachal Pradesh, have responded and the other States did not bother to file their responses. Some of them have simply engaged their counsel, who are appearing in court, and, as usual they have made prayer for time to file responses.

In spite of the order passed on 14th July, 2008 that we intend to give certain directions enumerated therein, it is unfortunate that neither the Director Generals of Police/Commissioners of Police, as the case may be, nor the Superintendents of police has taken any steps by giving suitable directions to the officers in-charge of the police stations. In view of this, we direct the Chief Secretaries of all the States and Union territories and Director Generals of Police/ Commissioners of Police, as the case may be, to see that the police officers posted in every police station throughout the country should act in accordance with the order dated 14th July, 2008, treating the proposed directions therein given by this Court to be the interim ones and, in case there is any failure on the part of any police officer, the concerned authority shall take immediate action against that officer.

In any view of the matter, we grant two weeks' time by way of last chance to the Chief Secretaries of all the States and Union territories, except Chief Secretaries and Director Generals of Police of the States of Uttar Pradesh and Arunachal Pradesh, as well as Directors General of Police/Commissioners of Police, as the case may be, to file responses failing which they shall have to appear in court in-person on the next date fixed in this case. As all the States and Union Territories are represented before this Court, it was not necessary for the Registry to communicate this order to the Chief Secretaries or Directors general of Police/Commissioners of Police, as the case may be, Nonetheless, the Registry is directed to communicate this order by fax as well to the Chief Secretaries of all the States and Union Territories and all the Director generals of Police/Commissioners of Police, as the case may be,

Let order dated 14th July, 2008, and this order be put on the website of the supreme court of India so that the people of India may know what directions have been given by this Court and they may take appropriate steps in case of any inaction on the part of the concerned officer of the Police station in instituting a case and the Chief Judicial Magistrate/Chief Metropolitan Magistrate, as the case may be, shall take action in a case of inaction upon filing of complaint petition and give direction to institute the case within the time directed in the said order failing which the chief Judicial Magistrate/ chief Metropolitan Magistrate, as the case may be shall not only initiate action against the delinquent police officer but punish them suitably by sending them to jail, in case the cause shown is found to be unsatisfactory. Apart from this, the Chief Judicial Magistrates/Chief Metropolitan Magistrate, as the case may be, shall report the matter to the disciplinary authority at once by fax as well upon receipt of which the disciplinary authority shall suspend the concerned police officer immediately in contemplation of departmental proceeding.

Place the matter on 25th August, 2008.

[T.I. Raj put]
A.R. -cum-P.S.

[Om Prakash]
Assistant Registrar

No 7749(14) / Dated 09.09.2008

From

Shri K.N Panigrahy,
Registrar (I & E) I/C

To

The District & Sessions Judge(All)

Sub: Implementation of the previous contained in Sections 436(1) & 436(A) of the Cr.P.C. regarding release of indigent prisoners on P.R. bond without sureties and release of prisoners on P.R. bond who have already undergone one half of the maximum period of punishment provided for the offence.

Sir,

I am directed to say that while communicating the D.O .letter of Hon'ble Minister, Govt. of India addressed to Hon'ble Chief Minister of Orissa regarding various measures adopted for improving the prison management and decongesting the jails, the Addl. Secretary to Govt. of Orissa, Home Department has requested this court for issuance of instructions to the Subordinate /criminal courts for implementation of newly amended provisions contained in Sections 436(1) and 436(A) of the Cr.P.C. The matter was under active consideration of the Court.

The Court on careful consideration of the matter, have been pleased to direct that when any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail. Provided that such Officer or Court, if he thinks fit, may, and shall, if such person is indigent and is unable to furnish surety, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance and where a person has, during the period of investigation, inquiry or trial under the Code of Criminal Procedure of an offence

under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties. Provided that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

I am, therefore, to request you to communicate the aforementioned instructions of the Court to the Criminal Courts working under your jurisdiction for their information and guidance and strict observance in future.

Yours faithfully,
KASINATH PANIGRAHY
Registrar (I & E) I/C

366

No 7753(14) / Dated 09.09.2008

From

Shri K.N .Panigrahy,
Registrar (I & E) I/C,

To

The District & Sessions Judge (All)

Sub: Resolution passed by the Bar Council of India in a meeting held on 15.12.2007 regarding prohibition of practice of advocate in a Court, Tribunal or Authority whose near relatives are Presiding Officers in those Courts.

Sir,

I am directed to enclose herewith the copy of letter No. SCI:D:793/2008 dtd. 15.2.2008 received from the Chairman, Bar Council of India, New Delhi on the above subject end to say that the Bar Council of India at its meeting held on 15th December, 2007 considered the aforementioned matter in depth and was of the view that the words " a Court, Tribunal, Authority" used in Rule-6, Chapter-II, part-VI of the Rules of the Bar Council of India denote only the particular court and not the Court centre as a whole.

The Court, therefore, direct that the above letter of the Bar Council of India be communicated to all the Judicial Officers working under your jurisdiction and also to local Bar Association for their information and guidance.

This is for your information and necessary action.

Yours faithfully,
K.N .PANIGRAHY
REGISTRAR (I & E) I/C

No 8813(14) / Dated 31.10.2008

From:

Shri D.Rout,
Registrar (I & E) I/C,

To

The District & sessions Judge (All)

Sub: Submission of report as per order dt. 3.9.2008 passed by the Hon'ble Supreme Court of India in W.P. (Crl).No. 296/2005 with W.P. (Crl.) No. 18/2006 regarding mentally ill and insane prisoners.

Sir,

In continuation of Court's Letter No. 8000(14) dtd. 21.11.2007 on the subject noted above, I am directed to send herewith a copy of order dtd. 03.09.2008 passed by the Hon'ble Supreme Court of India in W.P. (Crl.) No. 296/2005 with W.P. (Crl.) No. 18/2006 and to say that the Hon'ble Apex Court have been pleased to direct that the District Judges of the State will Monitor the pending cases of under trial prisoners who are mentally ill and thus unable to face trial and submit a report after every six months to the respective High Courts and the High Courts may issue appropriate directions to protect the rights of these under trial prisoners.

I am, therefore, to request you to strictly observe the above instructions issued by the Hon'ble Apex Court and to submit your report to the High court in every six months for taking further action in the matter.

Yours faithfully,

D.ROUT

REGISTRAR (I & E) I/C

No. 830 (14)/Dated 03.02.2009

From,

Shri Guru Prasad Sahoo,
Registrar (Inspection & Inquiry) I/C,

To,

The District & Sessions Judge,..... (All)

Sub: Taking adequate steps for reduction of arrears and speedy trial of cases.

Sir,

I am directed to say that the matter regarding "reduction of arrears and ensure speedy trial of cases" has been discussed under Item No.4 in the Conference of the Chief Ministers and the Chief Justices of the State held on 19.04.2008 and it was resolved in the Conference that all possible steps be taken to reduce arrears of cases and ensure speedy trial within a reasonable time period.

I am, therefore to request that, immediate steps be taken at your end for reduction of arrears and speedy trail of cases.

Yours faithfully,
GURU PRASAD SAHOO
REGISTAR (I & E) I/C

No 1382(14) / Dated 25.02.2009

From

Guru Prasad Sahoo,
Registrar (Inspection & Inquiry)I/C,

To

The District & Sessions Judges(All)

Sub: Issuance of summons/ Judicial process to the diplomats working in the Embassies of Foreign States in India through the Ministry of external Affairs, Govt. of India.

Sir,

In enclosing herewith the copy of the letter No.F.No.129301(30)/2008-Judl. Dt. 17.9.2008 received from the Addl. Legal Advisor to the govt. of India, Ministry of Law & Justice, Deptt. Of Legal Affairs, Judicial Section along with copies of the Diplomatic Relations (Vienna Convention) Act, 1972 And Vienna Convention on Diplomatic Relations, on the abovesubject, I am directed to say that the Court on careful consideration of the matter, have been pleased to direct that summons/ Judicial Process be served through the Ministry of External Affairs and not directly by the Courts to the diplomat working in the Foreign Embassies in India henceforth.

I am, therefore, to request you to bring the aforesaid direction to the notice of all concerned of your Judgeship for their information and strict guidance.

Yours faithfully,
GURU PRASAD SAHOO
REGISTRAR (I & E) I/C

370

F. No.129301)/2008-Judl
Government of India
Ministry of Law and Justice
Department of Legal Affairs Judicial Section

To

The Registrar,
All the High Courts.

Sub: Issue of summons/judicial process to Foreign Embassies-immunities and privileges available to diplomats regarding

Sir,

it has come to the notice of this Ministry that of late certain Courts have been issuing summons to the diplomats working in the Embassies of foreign States in India. These Embassies in India have been protesting against such practice by the Courts.

In this connection, we would like to bring your attention to the Diplomatic Relations(Vienna Convention) Act, 1972 and Vienna Convention on Diplomatic Relations (copy enclosed), which provides immunities and privileges available to diplomats in judicial matters and also the procedure to be adopted in service of judicial processes to diplomats, in case deemed necessary. In the matters other than those covered under the diplomatic immunity the judicial process be served through the Ministry of External Affairs and not directly by the Courts.

In view of the above, it is requested that the subordinate Courts within the jurisdiction of the High court may please be apprised of the above, so as to avoid any embarrassment to the Government of India, on this account i.e. issue of processes by the judicial authorities to the diplomats in India

Yours faithfully,

S.K. Dullo

Additional Legal Adviser to the
Government of India

371

No 1641(14) / Dated 04.03.2009

From

Shri Guru Prasad Sahoo,
Registrar (Inspection & Inquiry) I/C.

To

The District & sessions Judge.....(All)

Sub: Copy of Judgment dt. 24.12.2008 passed in BLAPL No. 9519 of 2008 regarding commitment of every case involving offence exclusively triable by the court of Session within a stipulated period.

Sir,

I am directed to enclose herewith the copy of Judgment dated 24.12.2008 passed in BLAPL No. 9519/2008 of this Hon'ble Court and to request you to circulate the same to the C.J.M.(s) and all committing Courts under your Jurisdiction for their information and strict guidance.

Yours faithfully,
GURU PRASAD SAHOO
REGISTRAR (I & E) I/C

IN THE HIGH COURT OF ORISSA : CUTTACK

BLAPL NO. 9519 OF 2008

In the matter of an application under section 439 of the Code of Criminal Procedure, 1973.

Biranchi Nayarayan Mishra and another ... Petitioners

-Versus-

State of Orissa ... Opp. Party

For Petitioner : M/s A.K. Behera
M.Balabantray &
S. Mohanty

For Opp. Party : Sri S. Behera,
Addl. Government Advocate

P R E S E N T :

THE HONOURABLE MR. JUSTICE L.K. MISHRA

Date of judgment: 24.12.2008

L.K. Mishra, J.

The petitioners are accused persons in G.R Case No. 1314 of 1990 pending in the court of learned S.D.J.M., Jajpur involving offence under section 489-D/ 34 of the I.P.C.

2. Heard learned counsel for both sides on the question of bail.

3. The facts necessary for the decision of the case are as follows: On getting information about suspicious activities of some persons, police raided the house of Biranchi Narayan Mishra (petitioner no.1) on 21.12.1990 and recovered and seized

chemicals, papers and many other articles used for printing fake currency notes. Four persons including petitioner no. 1 were arrested and forwarded to the Court. After investigation charge sheet was placed against six persons including petitioner no.1 namely Ani @ Laxmidhar Sahoo and petitioner no.2 who was shown as an absconder. On the basis of charge-sheet, cognizance of offence was taken under Section 489-D/34 of the I.P.C. against all the accused persons and N.B.W. was issued against petitioner no.2. It may be noted here that due to delay in filing of charge-sheet, petitioner no.1 Biranchi Narayan Mishra had been granted bail on 28.03.1990. Thereafter all the accused persons were available before the Court at one time or other, but as it appears all of them were not available at any particular time. One after the other jumped bail on different dates and after their apprehension/ appearance were granted bail by either the learned S.D.J.M or Addl. District Judge. The present petitioners jumped bail and remaining absconders for a period of about 4 years were produced before the learned S.D.J.M. on dated 19.06.08 on being arrested on the strength of N.B.W. On the same day their prayer for bail was rejected by the learned S.D.J.M. and on 17.07.08 the learned Sessions Judge, Cuttack rejected their prayer for bail in BLAPLNo.1105 of 2008 occasioning the present application.

4. Bail is prayed for on the ground that the petitioners were released on bail prior to the submission of charge sheet and they were not intimated by their advocate that charge sheet was filed against them and they were required to attend the Court. Therefore, under the impression that their names had been deleted from the charge-sheet they did not attend in the Court. Learned Addl. Government Advocate for the State has resisted the prayer for bail vehemently.

5. A perusal of the record shows that the sole plea taken by the petitioners is false and misconceived. Petitioner no.1 was released on bail since charge sheet was not filed in time and the petitioner no.2 remained absconder and was also granted bail after he was apprehended. Not only that, after submission of charge-sheet on many dates both the petitioners had appeared in the Court and also on several occasions they had defaulted and later were granted bail. Thus till the year 2004 both of them had taken part in the proceeding.

6. As per scheme of the Code of Criminal Procedure, 1973 (here-in-after called the Code) offences of higher magnitude, usually requiring greater punishment are made exclusively triable by the Court of Session which are otherwise loosely called Sessions cases. Sessions cases are to be tried by Senior Judicial Officers having greater experience such as Sessions Judge and Addl./Asst. Sessions Judge. It is a social requirement that such offences are tried as expeditiously as possible. Delay in trial defeats the ends of justice. Delay obliterates or weakens the evidence and more often than not results in acquittal of a case. Conversely the accused is also made to undergo prolonged harassment by running to the Court unnecessarily. Commitment to the Court of Session being an essential part of the sessions trial a committing court can effectively stall the disposal of the case 1 or a prolonged period knowingly or inadvertently. If a case triable by a Court of Sessions is not committed to the Court of Session with promptitude then interest of justice suffers greatly since there is every possibility of the witnesses being dead or not being available and other evidence being obliterated. Memory of witnesses is also liable to failure and ultimately the case may end in acquittal because of such reasons which are extraneous and not intrinsic to the case. The accused who deserves to be punished is unjustly acquitted sometimes only due to delay in trial. On the other hand if the accused is made to run to the Court for years together without the trial commencing then his entire life gets upset. Not only he remains under the stigma of the case with threat of conviction looming large over his head like the proverbial 'Damocles sword', but also he cannot perform his day to day affairs and his entire life becomes upset. He also cannot take up a job or remain at a distance place, cannot travel abroad, not can he take up any gainful employment necessitating prolonged absence. In this process the judiciary also earns a bad name for delay which is entirely avoidable.

7. In the present case though the case is triable by the Court of Session. No sincere step has ever been taken for commitment of the case to the Court of Session. Time and again one or the other accused remained absconder but the case suffered adjournments for years together for execution of N.B.Ws, without any effective steps being taken under the law to pursue the matter. There was absolutely no reason as to why the case was not split up and the accused persons

who are before the committing court were not sent up for trial before the Court of Session. Even copies of police papers were not directed to be prepared till 8.08.08, though as per instruction issued by the High Court as many copies as require are to be prepared at the first instance and to be tagged with the record not waiting for appearance/apprehension of the accused persons.

In short, the case has remained pending with the learned S.D.J.M, Jajpur without being committed to the Court of Session for all of these 18 years without any lawful and valid reason. While the cavalier attitude shown by the successive S.D.J.Ms is deprecated the Inspecting Authorities i.e. the Chief Judicial Magistrate and the District & Sessions Judge also cannot escape their liabilities lightly. During these 18 years the Court of the S.D.J.M., must have been inspected innumerable times. It was incumbent upon their part to have found out about the pendency of the record on inspections of the Court and particularly on inspection of connected registers in which the relevant entries are made. This case must have been one of the oldest cases in the file of the learned S.D.J.M., Jajpur which does not seem to have attracted the seriousness either of the committing court or the inspecting authorities. I wonder how many cases of this nature must be pending in different courts of the State for commitment owing to the negligence of the concerned courts.

After cognizance of a Sessions triable offence is taken all effort should be made to commit the case to the Court of Session as soon as possible after complying with all necessary requirements. In case there are more than one accused and if the attendance of all the accused persons could not be procured after making reasonable effort and exhausting the procedures of law with regard to issuance of N.B.W. and issuance of process under Sections 82 and 83 of the Code, the case should be split up and committed to the Court of Session along with available accused persons for trial. If an accused is not available despite all reasonable efforts then evidence of all necessary witnesses should be recorded by the Committing Court as provided under Section 299 of the Code and thereafter the case should be placed in the dormant file. The inspecting authorities should periodically monitor the situation to ensure commitment of every case involving

offence exclusively triable by the Court of Session within a stipulated period. While inspecting the committing court, the inspecting authorities should bestow their personal attention to the regular and up-to-date maintenance of the connected register and to cross-check the same by actual verification of the pending records.

10. It is directed that the registry shall take appropriate steps for circulation of this judgment to all the Sessions Judges of the State who shall in their turn circulate the same to the C.J.Ms and all the committing courts for guidance. Since the existing administrative instructions have not able to take care the situation effectively, it is necessary to examine this aspect and issue further guidance/ instructions in the matter to ameliorate the situation. In that view the registry shall do well to place the matter in the administrative side.

11. Coming to the case at hand, it is seen that the petitioners remained absconders for a period of four years. At the same time, it cannot be lost sight of that they had been running to the court for a prolonged period of 14 years without the case proceeding an inch. Right now they are in jail for a period of about six months continuously.

12 Having regard to the facts and circumstances of the case, I feel that the petitioners should be enlarged on bail. Let the petitioners be released on bail of Rs. 20,000/- (rupees twenty thousand) with two solvent sureties for the like amount each to the satisfaction of the learned S.D.J.M., Jajpur in the aforesaid case.

13. the learned committing court shall take steps for commitment of the case with promptitude and the trial court shall conclude the trial with all immediate dispatch.

The BLAPL is disposed of accordingly.

L. K. Mishra. J

No 5110 / Dated 04.08.2009

From

B.K. Biswal,
Registrar (I & E),

To

The Commissioner-cum-Secretary,
Govt. of Orissa, Labour and Employment Department,
Bhubaneswar

Sub: Strict adherence of Notification No. 9818 dtd. 7.8.1997 issued by Labour & Employment Department regarding disposal of cases U/s. 15 of the Payment of Wages Act. 1936 by the S.D.J.Ms.

Sir,

I am directed to say that it has been brought to the notice of this court that a good number of Cases U/s .15 of the Payment of Wages Act are pending in different Courts due to anomaly in entertaining such cases because of notification issued by your Department time to time such as No. 1027 dtd. 13.7.1987, No.16868 dtd. 26.12.1994 where in the Deputy Labour Commissioner and Asst. Labour Commissioner were authorized to entertain such cases whereas in your Departments Notification No. 9818 dtd. 7.8.1997 the S.D.J.Ms have been authorized to hear and decide all claims arising U/s .15 of the payment of Wages Act.

The matter was discussed in the last District Judges Conference, 2008 held on 20th& 21st March, 2009 under Item No. 3 and it was resolved that "Since Notification No. 9818/LE dated 07.08.1997 of the Government of Orissa Labour and Employment Department is in supersession of all previous notification issued on the subject, only S.D.J.Ms are empowered to try cases Under Section 15 of the Payment of wages Act "The Court, have been pleased to concur with the resolution passed under Item No. 3 of the district Judges, 'Conference, 2008.

I am, therefore, to request you to take necessary steps to issue instructions to all concerned for strict adherence of the above mentioned Notification No. 9818 /LE dt. 7.8.1997 henceforth.

Action taken may please be communicated to this court at an early date.

Yours faithfully,
B.K. BISWAL
REGISTRAR (I & E)

Memo No. 5111(14) / Dt. 04.08.2009

Copy forward to the District & Sessions Judge (All) along with the notification No. 9818/LE dt. 7.8.1997 for their information and communication to the SDJMs working under control for their information and guidance.

B.K. BISWAL
REGISTRAR (I & E)

From:

B.K. Biswal,
Registrar (I & E),

To

The District & Sessions Judges (All)

Sub: Desirability of naming Magisterial Courts functioning in different district headquarters stations in the State in numerical order & assigning or more police stations to each of such Courts.

Sir,

I am directed to say that the question of naming Magisterial Courts functioning in headquarters stations in numerical order and assigning one or more police stations to each of such courts was discussed under item No. 11 of the last District Judges' Conference, 2008

It was resolved that the Magisterial Courts functioning in different district headquarters stations in the State be named in numerical order. It is further resolved that allocation/ assignment of one or more police station to each such Magisterial Court may be taken up by the Sessions Judges in consultation with the respective C.J.Ms.

The Court on careful consideration, have been pleased to direct that the above resolution passed under Item No. 11, be strictly followed.

I am, therefore, to request you to strictly follow the above resolution in consultation with the respective C.J.Ms. and action taken up be intimated to the Court.

Yours faithfully,
B.K. BISWAL
REGISTRAR (I & E)

380

No 5617 / Dated 26.08.2009

From:

B.K. Biswal,
Registrar (I & E),

To

The District & Sessions Judge,.....(All)

Sub: Resolution passed in the District Judges' Conference, 2008 under item No. 7 registering the petitions filed by the Insurance Companies after the compensation is allowed in M.A.C.T. Cases as Misc. Cases and fixation of prescribed out turn.

Sir,

In inviting a reference to the proceedings of the District Judges' Conference, 2008 under Item No. 7, I am directed to say that the Court, after careful consideration, have been pleased to resolve that the petitions filed by the Insurance Companies for determination of inter-seliability of the owner of the offending vehicle after disposal of M.A.C.T. Cases U/s. 166 M.V. Act, be registered as Misc. Cases.

This is for your kind information and future guidance.

Yours faithfully,
B.K. BISWAL
REGISTRAR (I & E)

NO. 6589(14)/Dated 05.10.2009

From:

The Registrar General
Orissa High Court, Cuttack

To

The District & Sessions..... (All)

Sub: Expeditious disposal of cases pending in the Juvenile Justice Boards.

Sir,

It has brought to the notice of the Court from the report of the Special Rapporteur, National Human Rights Commission, receive through the Joint Secretary, Government of Orissa, Law Department that a number of cases of Juvenile in-conflict with Law are pending in the Juvenile Justice Boards of the state due to non-participation of Members of the Boards and also some other reasons.

The Court, while considering this matter, have been pleased to observe that the Government of Orissa in women and Child Development Department be moved for reconstitution of Juvenile Justice Boards in the Districts of Sundargarh, Khurda and Keonjhar and all the District and Sessions Judges of the State be requested to impress upon the C.J.Ms-cum-Principal Magistrates of Juvenile Justice Boards for taking necessary steps for expeditious disposal of cases pending in the Boards.

I am, therefore, to request you to impress upon the C.J.Ms-cum-Principal Magistrates of J.J. Boards working under your control for taking necessary steps for expeditious disposal of cases of Juveniles in-conflict with law.

The instruction of the Court be strictly followed henceforth.

Yours faithfully

Sd/-

REGISTRAR GENERAL

No. 761(17) /Dated.02.02.2010

From

Shri E.V. Rao, O.S.J.S (Sr. Branch)
Registrar General

To

- 1 .The District & Sessions Judge-cum-1stM.A..C.T.....(All)
- 2 The Member, IInd M.A.C.T,(S.D),Berhampur
- 3 The Member(N.D),Sambalpur
- 4 the Member, State Transport Appellate Tribunal-cum-IIInd M.A.C.T,
Cuttack

Sub: Re-Implementation of Order dtd. 17.12.2009 passed by the Hon'ble Supreme Court of India in Special Leave to Appeal (Civil) Nos.-11801-11804 of 2005 (Jai Prakash vrs. M/s National Insurance Co. & others) regarding streamlining the process of Motor Accident Claims cases.

Sir,

I am directed to forward here with a Xerox copy of aforementioned Order dtd. 17.12.2009 passed by the Hon'ble Supreme Court of India for your information and necessary action.

Yours faithfully
E.V. RAO -
REGISTRAR GENERAL

No.6554(14) / Dated. 17.08.2010

From

The Registrar (Vigilance)
Orissa High Court, Cuttack

To

The District & Sessions Judge,(all)

Sub: Desirability of change of mode of maintenance of Trial Register (R)-3 by all the Trial Magistrates.

Sir,

I am directed to say that the proposal for entering the cases where the accused pleads not guilty and claims for trial in the Trial Register (R)-3 was discussed under item No. 16 of the agenda of the District Judges' Conference, 2008 held on 20th and 21th March, 2009 and it was resolved to accept the proposal and to enter the cases which have not been disposed of on admission and otherwise be entered in the Trial Register (R)-3.

The court, on careful consideration of the matter have been pleased to concur with the aforesaid resolution and direct to bring the matter to the notice of all the District and Sessions Judges of the State for circulation among all magistrates working under their control.

I am therefore, to request that the above instructions of the Court may be brought to the notice of all the Subordinate Criminal Courts working in your judgship for their information and future guidance.

Yours faithfully,

Sd/-

REGISTRAR (VIGILANCE)

No. 8829(14) /Dated.22.11.2010

From

Shri J.P. Das
Registrar General

To

The District & Sessions Judge.....(All)

Sub: Submission of quarterly Statement instead of monthly showing the information regarding UTPs languishing in different jails of judgship for onward submission to Govt. of India in the Ministry of Law & Justice Deptt.

Ref: Court's letter No. 2189 (15) dt. 18.3.2010 & letter No. 5497 (14) dt. 16.7.2010

Sir,

In enclosing herewith the copy of letter no-J-15018/2/2010-JR dt. 15.10.2010 received from the Joint Secretary to Govt. of India, Ministry of Law & Justice (Deptt. Of Justice), I am directed to refer Court's letters cited above & to request you to submit statements to this Court on UTPs on quarterly basis starting from the quarterly ending September, 2010 instead of monthly basis after duly consolidating the information for onward submission to Govt. of India in Ministry of Law & Justice Deptt. Preferably by e-mail.

This may be treated as most urgent.

Enclosure:-Copy of letter no. J- 15018/2/2010-
JR dt. 15.10.2010 of Govt. of India.

Yours faithfully,

J.P.DAS

REGISTRAR GENERAL

385

No. J-15018/2/2010-JR
GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(DEPARTMENT OF JUSTICE)

Jaisalmer House,
26, Man Singh Road,
NEW DELHI-110 011
October 15, 2010

To

The Registrar Generals of all the High Courts
Orissa High Court
Cuttack

Sir

Kindly refer to Hon'ble Minister of Law & Justice letter dated 14th January, 2010 and his subsequent letters to the Chief justice of the High Court regarding the National Mission for Delivery of Justice and Legal Reforms-Under trial Programme.

2 In response to the letters written by the Hon'ble Minister, reports are being received in this Department on monthly basis.

3 It has now been decided that the reports on under -trial prisoners may be sent to this Department on quarterly basis, starting from the quarter ending September, 2010 instead of monthly basis. It is also requested that you may kindly make it convenient to send the reports by e-mail only (e-mail address: somcell-justice-mha@nic.in) and also to send consolidated information for the entire High Courts/ States instead of sending district-wise or jail-wise information. At present, reports are also being received directly from some District Judges and Jail Superintendents which may be discontinued

Yours faithfully,

Sd/-

(Ramesh Abhishek)

Joint Secretary to the Govt. of India

Tel/Fax: 23383037 (o)

No.9553(14)/Dated. 16.12.2010

From

Shri B.K. Dash
Registrar (Vigilance)

To

The District and Sessions Judge,(All)

Sub: Order dated 18.8.1998 passed by Hon'ble the Supreme Court of India in Writ Petition (Crl.) No. 312 of 1994 (Supreme Court Legal Services Committee-Vrs.-Union of India & others) regarding providing free copy of the judgment of Sessions Court/ Trial Court to the Prisoner/ Convict through the Superintendent of jail concerned immediately within 30 days of pronouncement of the judgment.

Sir,

I am directed to say that the Court on careful consideration of the proposal of the Supreme Court Legal Services Committee, New Delhi and the aforementioned order of the Hon'ble Supreme Court of India (copy enclosed for reference), have been pleased to accept the proposal and direct that the authenticated copy of the judgment of Trial Courts/ Sessions Court be forwarded to the Superintendent of jail concerned immediately within 30 days after pronouncement of the judgment. The Registry of the Court concerned will personally endorse such copy to the Superintendent of the Jail for forwarding the same to the petitioner.

I am, therefore, to request you to communicate the above instruction to the all Criminal Courts under your control for their information and strict compliance.

Yours faithfully,
B.K. DASH
REGISTRAR (VIGILANCE) I/C.

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
WRIT PETITION (CRL.) 312 OF 1994

Supreme Court Legal Services committee.....Petitioner

Versus

Union of India & Ors.....Respondents

(With W.P.(C) No. 637/97 and Contempt P. (Crl.)
Nos. 1-31 in writ Petition (Crl.) No. 312/94)

ORDER

Writ Petition (Crl) No. 312/94)

In this matter, after passing numerous interim orders and after adjourning the cases from time to time to enable the concerned Authorities to implement the provisions of the Legal Services Authorities Act, 1987, it is now reported that almost all the States have substantially complied with the implementation of the Act. In view of that, no further action is necessary, except to consider the directions as prayed for in the Writ petition, which reads as follows:-

“Issue appropriate writs, orders or directions in the nature of mandamus to each of the Respondents directing-

- (i) That they will be issuing administrative orders/instructions ensure that every prisoner/convict is provided with free copy of the judgment of the Sessions Court or the High Court in her/his case or matter within 30 days of the pronouncement of such judgment and that the Registry of the Court concerned will personally endorse such copy to the Superintendent of the Jail for forwarding same to the Petitioner;
- (ii) The Superintendent of the Jail concerned to ensure that the judgment of the Sessions Court or the High Court, as the case may be, is read out to the prisoner and explained to him in the language as understood by him.
- (iii) That the prisoner will be informed by the Superintendent of every Jail about the availability of legal aid in the High Courts and the Supreme Court and be asked whether he is desirous of exercising his constitutional right to avail of legal aid

- (iv) That every Jail will have to provide at the cost of the State Exchequer copy of Vakalatnama, proforma Affidavit in the form as required by the respective High Courts and the Supreme Court for being signed by the prisoner immediately upon expressing his intention to avail of legal aid.
- (v) That the Superintendent of the Jail will ensure that complete papers/records of the case are sent to the Supreme Court Legal Aid Committee or the High Court Legal Aid Committee along with signed Vakalatnama and Affidavit of the prisoner forthwith by registered post at the cost of State Exchequer and that if there is any delay in forwarding the papers, the reasons for forwarding the papers belatedly will accompany such papers.
- (vi) That where the judgment of the Sessions Court and the High court is in a language other than English, the Superintendent of the Jail will at state's cost arrange to have the same translated before sending the papers to the Supreme Court Legal aid Committee or the High Court Legal aid Committee, as the case may be".

The learned counsel appearing the various States submitted that no express direction is necessary as these directions are implied in the implementation of the Legal Services Authorities Act, 1987. None the less, the counsel appearing for various States have no objection to order the above prayer for directions.

Accordingly, we allow the prayer for directions as sought in the Writ Petion. The respondents shall take immediate steps to carry out the above directions. The reference in the prayer for direction to "Legal Aid Committee" must be taken to mean and refer to the corresponding body now functioning.

In view of the above, this petition will stand disposed of accordingly.

We place on record our thanks to all the learned counsel, who ably assisted the Court in his matter for achieving the desired results.

(K.Venkataswmi)-J

(A.P.Mishra)-J

New Delhi,
August 18, 1998

No.1647(14) / Dated. 28.02.2011

From

Shri J.P. Das
Registrar General

To

The District & Sessions Judge,(All)

Sub: Recommendation of the 2nd Administrative Reforms Commission (ARC) regarding issuance of guidelines in order to preclude unwarranted adjournment and avoidable delays in trial of cases.

Sir,

I am directed to say that the Government of India in Ministry of Law & Justice has requested this Court for issuance of guidelines in order to preclude unwarranted adjournments and avoidable delays in trial of cases as per recommendation of the 2nd Administrative Reforms Commission (ARC) contained in Para 18 (d) of its Report titled on " Ethics in Governance."

The Court on careful consideration of the matter, have been pleased to direct that the earlier instructions issued by this Court in G.L. No. 2/1974 (Civil & Criminal), Circular letter No, 12800 (13) Dtd. 5.11.88 and Circular letter No. 6962(13) Dtd. 7.8.89 to avoid adjournment and avoidable delays be strictly followed for speedy disposal of cases.

I am therefore to request you to bring the above direction of this Court to notice of all the judicial officers working under your jurisdiction for their information and strict guidance.

Yours faithfully

J.P. DAS

REGISTRAR GENERAL

No.3938(15)/Dated.23.05.2011

From

Shri I.K. Das
Special Officer (Special Cell)

To

The District & Sessions Judge,(all)

Sub: Order dtd. 21.4.2011 passed by the Hon'ble the Supreme Court of India in SLP(Civil) No. 11127/2011 not to entertain any petition involving challenge to the provisions of the National Green Tribunal Act, 2010 and the Rules framed there under.

Sir,

I am directed to forward herewith a copy of order dated 21.4.2011 passed by the Hon'ble the Supreme Court of India in SLP (Civil No. 11127/2011 not to entertain any petition involving challenge to the provisions of the National Green Tribunal Act, 2010 and the Rules framed thereunder for your information & guidance and for communication to all the Courts subordinate to you for their information and guidance.

Yours faithfully

I.K. DAS

SPECIAL OFFICER (SPECIAL CELL)

391

SUPREME COURT INDIA
NEW DELHI

D.No. 2181/2011 XII

Dated. 27th April

From: Assistant Registrar

PETITIONS FOR SPECIALIEAVE TO APPEAL (C) NO. 11127OF 2011

(Ref: W.P. No. 4968 of 2008 of the High court of Madras)

Union of India & Anr.

....Appellants

Versus

M.Naveen Kumar

...Respondent

Sir,

I am directed to transmit herewith for necessary action a certified Copy of Record of Proceedings dated 21st April, 2011 passed in the above mentioned matter for your information and necessary action.

Please acknowledge receipt.

Yours faithfully

Sd/-

ASSISTANT REGISTRAR

ITEM NO.51

COURT NO.11

SECTION XII

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petitions for Special leave to Appeal (Civil) No(s).11127/2011 (From the judgment and order dated 01/03/2011 in WP No. 4968/2008 of the High Court of MADERAS) UNION OF INDIA & ANR. Petitioner (s)

VERSUS

M.NAVEEN KUMAR

Respondent(s)

(with appln (s) for exemption from filling c/c of the impugned Judgment and prayer for interim relief and office report)

WITH

T.P..(C) NO. 462-463 OF 2011

(with appln (s) for ex-parte stay)

Date: 21/04/2011 These Petitions were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE G.S SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Ms. Indira Jai Singh, A.S.G

Mr. J.S.Atri, Adv.

Ms. Sadhna Sandhu, Adv.

Mr. Smriddhi Sinha, Adv.

Mr. Shreekant N. Terdal, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

ORDER

S.L.P.(C) NO(S).11127/2011:

Heard learned Additional Solicitor General and perused the record.

Prima facie/ we are of the view that the division Bench of the High court was not at all justified in staying the implementation of the National green Tribunal(Manner of Appointment of Judicial and Expert Members, Salaries, Allowances and other Terms and Conditions of Service of Chairperson and other Members and Procedure for Inquiry) Rules, 2010 (for short, "2010 Rules) ignoring

that the writ petitioner was not a competitor for either post and the settled law that in matters involving challenge to the vires of a legislation, the Court is extremely loath to pass an interim order and thereby frustrate implementation of the statute. What is most surprising is that the Division Bench of the High Court passed the impugned order at the threshold without giving reasonable opportunity to the petitioners herein to controvert the averments contained in the writ petition filed in the nature of the public interest litigation.

Issue notice to the respondent, returnable in sixteen weeks, on the special leave petition as also on the prayer for interim relief. Dasti, in addition, is permitted.

It shall be the duty of the petitioner to serve the respondent before the next date of hearing.

It the meanwhile, operation of the impugned order shall remain stayed.

Since this Court is seized with the issues raised in the writ petition-(Special Leave Petition (c) No. 12065/2001-Union of India v. Vimal Bhai and others), we deem it proper to direct that no Court shall hereafter entertain any petition involving challenge to the provisions of the National Green Tribunal Act, 2010 and the rules framed thereunder including the rules which were challenged in the writ petition filed by the respondent before the Madras High Court.

The Registry is directed to immediately send copies of this order to all the High courts. The Registrar Generals of the High Court shall immediately obtain orders from the respective Chief Justices and circulate this order to all the Courts subordinate to their respective High Courts.

Transfer petition (c) Nos. 462-463 of 2011:

Since the issues raised in the writ petition filed by the respondent before the Madras High Court are directly related to the issues being considered by this Court in SLP (C) No. 12065 of 2009, we are prima facie of the view that the writ petition filed before the Madras High Court should be transferred to this Court and declared along with SLP(C) No. 12065 of 2009.

Issue notice returnable on 11.7.2011. Dasti, in addition, is permitted.

(A.D.SHARMA)
(Court Master)

(Phoolan wati Arora)
(Court Master)

No.4251(15) / Dated. 02.06.2011

From

Shri I.K. Das
Special Officer (Special Cell)

To

The District & Sessions Judge,(all)

Sub; Law Department Notification No. 4710 dtd. 13.5.2011 regarding amendment of Part-III of the 1st schedule of the Gram Nyayalaya Act, 2008.

Sir,

I am directed to forward herewith a copy of Law Department Notification No. 4710 dtd. 13.5.2011 regarding amendment of Part-III of the 1st Schedule of gram Nyayalaya Act, 2008. for your information and for circulation to the Nyadhikaris working in your judgeship for their information and future guidance.

Yours faithfully

I.K. DAS -

SPECIAL OFFICER (SPECIAL CELL)

GOVERNMENT OF ORISSA
LAW DEPARTMENT
NOTIFICATION

Bhubaneswar, dated the 13th May, 2011

No.IJ-13-30/2011 4710 L.- In exercise of the powers conferred by sub-section (3) of section 14 of the Grama Nyayalayas Act, 2008, the State Government in consultation with the High Court add the following items in Part III of the First Schedule of the Gram Nyayalaya Act, 2008, namely:-

- i. Offence under the Orissa Electricity Supply - Line Material (Unlawful Possession) Act, 1988.
- ii. Offence under the Orissa Saw Mills & Saw Pits (Control) Act, 1991
- iii. Offence under the Orissa Conduct of Examination Act, 1988.
- iv. Offence under the Orissa Money Lenders Act,1939
- v. Offence under the Prevention of Cow Slaughters Act, 1960.
- vi. Offence under the Orissa Prevention of Grambling Act, 1955.
- vii. Offence under the Orissa Fire Works and Loudspeakers (Regulation) Act,

By order of the Governor
D.Dash
Principal Secretary to Governor

No. 4754(15)/Dated. 28.06.2011

From

Shri J.P. Das, O.S.J.S.(Sr. Branch)
Registrar General

To

The District & Sessions Judge, Balasore/ Bhadrak/ Bolangir/ Cuttack/
Dhenkanal/ Ganjam/ Kalahandi/ Keonjhar/ Khurda/ Koraput/ Mayurbhanj/
Phulbani/ Puri/ Sambalpur/ Sundargarh.

Sub: Launching of the "Mission Mode Programme" as a special drive for reduction
of Pendency in Courts from 01.07.2011 to 31.12.2011.

Sir,

I am directed to say that Hon'ble the Minister of Law & Justice, Govt. of
India, New Delhi had addressed to the Hon'ble Chief Justice regarding Launching of
the Mission Mode Programme as special drive for reduction of Pendency in Courts
from 01.07.2011 to 31.12.2011.

The court, after careful consideration on the above matter, have been
pleased to direct that the following measures be taken with immediate effect for
reduction of Pendency of your judgeship under the Mission Mode Programme.

1. A target be fixed for disposing all the matters up to the year, 1995 by the
end of September, 2011.
2. While dealing with such old matters, care must be taken to see if any of the
cases can be referred to mediation for effective resolution of the disputes.
3. Fortnightly reports be submitted to this Court positively regarding target
achieved in this regard, after obtaining the same from all courts of your
judgeship.
4. As a special incentive, the disposal of cases up to the year, 1995 shall be
given with double of the prescribed yardstick norms.
5. It is to be ensured during your regular jail visit that no UTP has been
detained for more than the maximum period of sentence prescribed for the

offence for which he is facing trial, and also to see that the provisions of Section 436-A of Cr.P.C. are being duly resorted to by the Courts.

6. Special Lok Adalats be conducted for N.I. cases.
7. Specific Courts station-wise be designated to try & disposed of N.I. Act cases. At the inception of trial of such case, the parties be informed that the offence is compoundable & the Court must take note of the decision of the Supreme Court reported in AIR 2010 SXC 1907 (Damodar S. Prabhu Vrs. Sayed Babalal H.) in case of compounding of the cases, where proposal for graded scheme of imposing costs on the parties is propounded.
8. The list of cases where stay has been granted by the High Court be furnished to this Court very soon for early listing of those cases before the Benches.

Yours faithfully

J.P. DAS

REGISTRAR GENERAL

No. 5404(16)/Dated. 19.07.2011

From

Shri J.P. Das, O.S.J.S.(Sr. Branch)
Registrar General

To

The District & Sessions Judge, Balasore/ Bhadrak/ Bolangir/ Dhenkanal/
Ganjam/ Kalahandi/ Keonjhar/ Khurda/ Koraput/ Mayurbhanj/ Phulbani/
Puri/ Sambalpur/ Sundargarh/ Nayagarh.

Sub: Launching of the "Mission Mode Programme" as a special drive for reduction
of Pendency in Courts.

Sir,

In continuation of Court's letter No. 4754(15). Dated 28.06.2011 in the
captioned subject, I am directed to say that the Court, after careful consideration
on the above matter, have been pleased to further direct that the following
measures be taken with immediate effect for reduction of Pendency of your
judgeship under the Mission Mode Programme.

1. Necessary steps be taken for maximum possible disposal (at least 2/3rd) of
petty cases during the Mission Mode Programme, utilizing the services of the Shift
Courts.
2. Top priority be given for disposal of cases involving Sr. Citizens, Minors,
Disabled and other Marginalized groups.

Yours faithfully

J.P. DAS

REGISTRAR GENERAL

No.7580(19)/Dated. 29.09.2011

From

Shri I.K. Das
Special Officer (Special Cell)

To

The District & Sessions Judge,(All)

Sub: supply of copy of Judgment Dtd. 09.05.2011 passed by Hon'ble Supreme Court of India in criminal appeal No. 1117 of 2011 (Bhagawan Dass Vs. State (NCT of Delhi) relating to " Honour Killing".

Sir,

I am directed to forward herewith a copy of Judgment Dtd. 09.05.2011 passed by Hon'ble the supreme Court of India in Criminal Appeal No. 1117 of 2011 (Bhagawan Dass vs. State (NCT) of delhi) relating to "Honour Killing" for your information and circulation among all the Addl. Sessions Judges of your Judgeship for their information

Yours faithfully

I.K. DAS
SPECIAL OFFICER (SPECIAL CELL)

400

No.8556(20) / Dated. 16.11.2011

From

Shri J.P. Das
Registrar General

To

The District & Sessions Judge,(All)

Sub: Guidelines indicated by the Hon'ble supreme Court of India in Judgment dated 9.9.2011 passed in Criminal appeal No. 1758 of 2011 (R.D Bhasin Vs. State of Maharashtra and another) regarding issuance of NBWs by the Subordinate Courts.

Sir,

I am directed to forward herewith a copy of Judgment dated 9.9.2011 passed by Hon'ble supreme Court of India in criminal Appeal No. 1758 of 2011 (R.D. Bhasin Vs. state of Maharashtra and another) for your information and put into practice the prescribed guidelines and also for communication to all the Criminal Courts working in your Judgeship for their information and guidance.

Yours faithfully

J.P. DAS

REGISTRAR GENERAL

No.8772(20) / Dated. 23.11.2011

From

Shri J.P. Das
Registrar General

To

The District & Sessions Judge,(All)

Sub: Service Abroad of Judicial and Extra-judicial Documents under the Hague Convention of 1955/Mutual Legal Assistance Treaties/ Reciprocal arrangements with foreign countries in Civil and Commercial matters.

Sir,

I am directed to enclose herewith the copy of office memorandum dt. 18.8.2011 received from the Joint Secretary & Legal Advisor, Govt. of India, Ministry of Law & Justice, Department of legal Affairs, New Delhi and to say that the Court, on careful consideration of the matter, have been pleased to direct that the summons/ Notices in duplicate shall be issued providing 3 months time in advance to that Department for affecting the service in foreign countries with Full address of the party and translation of the documents in the official language of requesting country wherever necessary. Moreover the particulars of information as provided in the enclosure may strictly be followed henceforth.

I am, therefore, to request you to bring the above instruction of the Government of India to the notice of all the Courts working under your control for their information and strict adherence.

Yours faithfully

J.P. DAS

REGISTRAR GENERAL

F No. 12(77)10JudI

Government of India
Ministry of Law and Justice
Department of Legal Affairs
(Judicial Section)

Shastri Bhawan, New Delhi

Dated 18.8.2011

Office Memorandum

Sub: Service Abroad of Judicial and Extra-judicial Documents under the Hague Convention of 1965/Mutual Legal Assistance Treaties/ Reciprocal arrangements with foreign countries in Civil and commercial Matters-regarding.

The undersigned is directed to refer to the subject cited above and to state that this Department is the Central authority for service of summons/notices in foreign countries under the provisions of the above Agreements.

2. It has been observed by this Department that a large numbers of documents received from the various courts are incomplete in one respect or the other and it gets quite difficult to process those documents to the foreign countries for service.
3. It is therefore requested to all Registrar Generals of supreme Court/High Courts to circulate the following information to the Courts within their jurisdiction with the direction to ensure the particulars of documents before sending the same to this Department:-

S. No.	Particulars of information	
1.	Summons / Notices in duplicate shall be issued providing 3 months time in advance this to Department for affecting the service in foreign countries.	
2.	Full address of the party and translation of the documents in the official language of requesting country wherever necessary.	
3.	The Central authority, USA has authorized to receive the summons/notices under Hague convention of 1965 to an agency, Process Forward International. The Notices/summons for USA may therefore be sent directly by the Courts to Process Forwarding International, 633 Yesler Way, Seattle, WA 98104, USA along with the required fee etc. (details available at www.hoch.net).	
4.	Ministry of Home Affairs is the nodal ministry and Central Authority for seeking and providing the mutual legal assistance in criminal law matters. Ministry of Home Affairs receives all kind of such requests, examine and takes appropriate action (as per circular no T4410/14/2006 dated 30.04.2010 of Ministry of External affairs)	
5.	The Central authorities in Canada are charging a cost of Rs. \$ 50.00 Canadian for the process of service under the Hague convention of service e Abroad of Judicial and Extra Judicial Matters, 1965. The payment accompanying the documents to be served must be in the form of a traveler's cheque or a cheque, in the amount of Can \$50 per request. The travelers cheque or cheque must be drawn on a <u>Canadian Bank</u> . The details may be seen at www.hcch.net	
6.	Consulate General of India in Sydney has informed that the Sheriffs Office of NSW levies a fee of AUD 54 for serving summons through their office. The fee could be remitted in favour of the Consulate General of India, Sydney and the	

	details of the 'Head of Account' under which such payment has to be debited be provided for making necessary action. (details available at www.hcch.net).	
7.	This department process the service of summons/notices in Civil and commercial matters issued by an Indian court fore service on a person residing in a foreign country with which there is any reciprocal arrangement. The list of member State/non-member State may be seen at www.hcch.net .	

4. Since the number of requests from various courts on the subject has increased to manifold, the incomplete documents received in this regard will be returned to the court concerned with a copy of this circular.
5. This issues with the approval of Hon'ble MLJ

(M.A. Khan Yusufi)
Joint secretary and Legal adviser

No.9559(20)/ Dated.20.12.2011

From

Shri B.K .Mohanty, OSJS. (Sr. branch)
Registrar (Judicial)

To

The District & Sessions Judge,(All)

Sub: Amendment of Orissa High Court Rules, Volume-I, 1948 (4th edition, 1983)
for use of Holograms on each sheet of paper used for preparation of certified
copies and realization of the cost from the applicants.

Sir,

I am directed to say that the Court while considering the matter relating to
amendment of Orissa High Court rules, Volume-I, 1948 (4th edition, 1983) for use
of Holograms on the papers used for preparation of certified copies and realization
of the cost from the applicants have been pleased to observe to insert the following
as rule 9-A below the existing Rule 9 of chapter XXI, Part-V at page-57.

“Rule-9-A, Whenever any certified copy is issued to any applicant under this
Chapter, the hologram shall be affixed on each sheet of paper used for preparation
of the Copy and the applicant shall pay the cost at the rate of one rupee only per
each hologram in shape of court fees. Registrar (Judicial) will be custodian of the
holograms.”

This will be given effect to from 2nd January, 2012.

I am, therefore, to request you to bring the above observation of the Court
to the notice of all the Judicial Officers working under your jurisdiction for their
information and guidance.

Yours faithfully
B.K .MOHANTY
REGISTRAR (JUDICIAL)

NO.3102 (20)/ Dated.10.04.2012

From

The Registrar (Vigilance)
Orissa High Court, Cuttack

To

The District & Sessions Judge,.....(All)

Sub: Monthly meeting of Senior Officers.

Sir,

I am to say that the matter relating to holding of monthly meeting of senior officers was discussed under Item No. 5 of the Senior Officers' meeting in the District & Sessions Judges' Conference, 2010 held on 9th April, 2010 and it was resolved that the meeting of the Senior Officer should be held regularly and in case of any difficulty on the part of the Collectors and S.Ps on working days, the meeting can be held on holidays in consultation with the respective District Judges.

I am therefore to request that the above resolution of the District Judges' Conference, 2011 may kindly be brought to the notice of all the Chief Judicial Magistrates of your judgeship for their information and guidance.

Yours faithfully

Sd/-

REGISTRAR (VIGILANCE)I/C

No.3581(20)/Dated. 26.04.2012

From

The Registrar (Vigilance)
Orissa High Court, Cuttack

To

The District and Sessions Judge,(All)

Sub: Supply of free Copy of Judgments to the Vigilance department in convicted cases.

Sir,

I am directed to say that on the request of the Director-cum-D.G. & I.G of Police, Vigilance, Orissa, Cuttack for supply of free Copy of Judgments to the Vigilance Department in convicted cases in order to timely intimation of the same to the concerned Department to take appropriate departmental action or go on appeal for enhanced sentence, the Court after careful consideration have been pleased to observe that free copy of the Judgments in convicted cases be supplied to the Vigilance Department.

I am therefore, to request you to kindly bring the above instruction of the Court to the notice of all the Judicial Officers working under your Jurisdiction, for their information and guidance.

Yours faithfully

Sd/-

REGISTRAR (VIGILANCE)

No.5897(25)/Dated. 26.07.2012

From

B.K. Dash
Registrar (Vigilance)

To

The District and Sessions Judge,(All)

Sub: Supply of copy of Final Order/Judgment to the Director, Forensic Science Laboratory in cases where Forensic Reports have been filed and discussed.

Sir,

I am directed to say that the Court on careful consideration of the letter of the Joint Secretary, Govt. of India, Ministry of Home Affairs (P.M. Divn), New Delhi on the subject noted above, have been pleased to direct that copy of final order/ judgment be provided to the concerned Director, Forensic Science Laboratory in cases where Forensic reports have been filed and discussed.

I am therefore to request that the aforesaid instruction of the Court may be brought to the notice of all the Criminal Courts under your jurisdiction for their information and strict guidance.

Yours faithfully

B.K. DASH
REGISTRAR (VIGILANCE)

No.8078(26)/ Dated 29.09.2012

From

Shri J.P. Das
Registrar General

To

The District & Sessions Judge,(All)

Sub; Compliance of directions issued by the Hon'ble Supreme Court in Criminal Appeal Nos. 1899-1900 of 2011(Mohammad Ajmal Mohammad Amir Kasab @ Abu Mujahid Vrs. State of Maharashtra) decided on 29.08.2012.

Sir,

With reference to the subject cited above, I am to say that there is certain direction of the Hon'ble Supreme Court to all the Magistrates of the country to follow as observed in the judgment in Criminal Appeal Nos. 1899-1900 of 2011 (Mohammad Ajmal Mohammad Amir Kasab @ Abu Mujahid Vrs. State of Maharashtra) decided on 29.8.2012.

I am, therefore, directed to send the relevant portion of the judgment viz; Para-484 for information and strict compliance by all concerned.

Yours faithfully
J.P. DAS
REGISTRAR GENERAL

410

No.10260(27) / Dated 14.12.2012

From

Shri B.K.Dash
Registrar (Vigilance)

To

The District & Sessions Judge,(All)

Sub; Submission of quarterly Jail visit report by the District Committee-Court's
Circular Letter No. 2348 dt. 10.03.2000 -regarding.

Sir,

I am to say that it has come to the notice of Court that the reports of jail visits submitted to Court do not show whether the defects pointed out in the previous jail visits have been rectified or not and whether the recommendations of the Committee have been complied with or not by the different authorities.

Therefore, I am directed to request you to ensure during the subsequent jail visits as to whether the defects pointed out during the previous jail visits have been rectified or not as well as recommendations of the committee have been complied with or not and reports of the jail visit be submitted accordingly.

Yours faithfully

B.K.DASH
REGISTRAR (VIGILANCE)

No. 703(27) / Dated 22.01.2013

From

Shri B.K.Dash, OSJS
Registrar (Administration).

To

The District & Sessions Judge (All).

Sub: Setting up of Courts of Sessions (Special track Courts) to deal exclusively with offences against women.

Sir,

With reference to the above subject, I am directed to say that the Court are pleased to appoint Registrars of the Civil & sessions Courts as Asst. Sessions Judge and direct that they shall deal with offences against women in the Headquarters in addition to their own duties. Further, you are directed to take necessary steps on the following points:

1. to identify one Court each, where more than one magisterial Court is functioning, to deal with offences against women;
2. to instruct all other Courts dealing with offences against women to give priority on disposal of those cases;
3. to issue suitable instruction to the Magistrates to consider the matter of taking cognizance of sexual offences against women in accordance with law without delay;
4. to supply police papers to the accused persons and to take steps for commitment within a period not exceeding 10(ten) days.

Further, the Court are pleased to direct you to ensure functioning of these Special track Courts not later than 15th of February, 2013 and action taken in this regard be intimated to the Court by following the aforesaid observation of the Court.

Yours faithfully

B.K.DASH

REGISTRAR (ADMINISTRATION)

412

No. 2302 (27) / Dated. 12.03.2013

From

Shri I.K.Das
Special Officer (Special Cell)

To

The District & Sessions Judge,(All)

Sub: Apex Court's order regarding disposal of cases under NDPS Act.

Sir,

I am directed to send herewith the copy of Apex Court's order dtd. 23.01.2013 passed in CrI. Appeal No. 1640/2010(Thana Singh Vrs. Central Bureau of Narcotics) concerning trial of the cases under the NDPS Act for your reference and necessary action.

Yours faithfully

I. K .DAS

SPECIAL OFFICER (SPECIAL CELL)

413

No.3085 (27) / Dated 08.04.2013

From

The Registrar (Inspection)
Orissa High Court, Cuttack

To

The District & Sessions Judge,(All)

Sub: Judgment dtd. 04.04.2013 passed by the Orissa High court in CrI. Rev No. 161/2012 regarding trial of complaint cases under Section-138 of N.I. Act.

Sir,

I am directed to send herewith a copy Judgment dtd. 04.04.2013 passed in Cr. Rev No. 161/2012 (Kishore Pallei Vrs. Aruna Kumar Panda) regarding trial of complaint cases under Section -138 of N.I Act, for your information and bring to the notices of the Chief Judicial magistrates and Judicial Magistrates First Class working under your jurisdiction for their future guidance.

Yours faithfully

Sd/-

REGISTRAR (INSPECTION)

414

No.3104 (27) / Dated 08.04.2013

From

Shri J.P.Das
Registrar General

To

The District & Sessions Judge,(All)

Sub:- Apex Court's direction in W.P.(C) No. 349/2006 regarding disposal of all cases under the PC& PNDT Act within a period of six months.

Sir,

I am directed to send herewith a copy of Apex Court's order dtd. 04.03.2013 passed in W.P. (C) No.349/2006 (Voluntary Health Association of Punjab Vrs. Union of India & Ors.) on the above subject for your information and to bring to the notices of all the Judicial Officers functioning in your jurisdiction for necessary compliance.

Yours faithfully

J.P.DAS

REGISTRAR GENERAL

No.3220 (27) / Dated10.04.2013

From

Shri J.P.Das
Registrar General

To

The District & Sessions Judge,(All)

Sub:- Direction of the Apex Court in Criminal Appeal No. 1735/2009 to follow the procedure contained in Sec-231 r/w Sec-309 Cr.P.C for expeditious trial of cases.

Sir,

I am directed to say that Hon'ble the supreme Court of India in Judgment dtd. 06.12.2012 passed in Criminal Appeal No. 1735/2009 (Akil @ Javed Vrs. State of NCT of Delhi) have directed to follow the instructions imparted in the decisions reported in Rajdeo Sharma Vrs. State of Bihar-1998 CrL. L..J. 4596 and in State of U.P Vrs. Sambhunath Singh & Ors.-(2001) 4 SCC 667 scrupulously and for strict adherence to the procedure prescribed under Section 231 r/w Section 309 of Cr.P.C to ensure speedy trial of cases without granting undue long adjournment for mere asking.

For details please visit Supreme Court's website.

This is for your information and communication to all the Judicial Officers functioning in your judgship for their strict compliance.

Yours faithfully

J.P.DAS
REGISTRAR GENERAL

No. 4906(7) / Dated 20.06.2013

From

Shri J.P.Das
Registrar General

To

The Judge, family court, Balasore/ Puri/ Berhampur/ Khurda/ Bhubaneswar/
Cuttack/ Rourkela.

Sub:- Disposal of Adoption Cases under Juvenile Justice(Care & protection of
Children) Act, 2000.

Sir,

I am directed to say that it has come to the notice of the court that delay is
caused in disposal of adoption cases under Juvenile Justice (care & Protection of
Children) Act, 2000 in the family Courts and the court have been pleased to instruct
you to strictly adhere to the time frame for disposal of such cases.

This is for your information and guidance.

Yours faithfully

J.P.DAS

REGISTRAR GENERAL

No. 5087(30)/ Dated 25.06.2013

From

Shri J. Naik
Asst. Registrar (Establishment)

To,

The District & Session Judge, Balasore/ Bhadrak/ Bolangir/ Sonapur/
Cutack/ Kendrapara/ Jagatsinghpur/ Jajpur/ Dhenkanal/ Angul/ Ganjam/
Gajapati-Paralakhemundi/ Kalahandi/ Nuapada/ Keonjhar/ Khurda-
Bhubaneswar/ Koraput/ Malkangiri/ Rayagada/ Nabarangpur/
Mayurbhanj/ Phulbani/ Boudh/ Puri/ Nayagarh/ Sambalpur/ Baragarh/
Deogarh/ Jharsuguda/ Sundargarh

Sub: Speedy Disposal of cases under Protection of Civil Rights Act, 1955 & SC &
ST (Prevention of Atrocities) Act, 1989.

Sir,

I am directed to say that a huge number of above noted cases are pending
for trial in different Courts which has become a matter of great concern, as
discussed in the meeting of Principal Secretaries/ Secretaries of Social Welfare
Department at New Delhi.

Therefore, I am directed to request that all suitable steps be taken for
speedy disposal of pending trial cases under the above noted Acts.

Yours faithfully,

J. NAIK
ASST. REGISTRAR (ESTT.)

No. 5330(30) / Dated 29.06.2013

From

Dr. A. K. Mishra,
Registrar (Inspection) I/c.

To

The District & Sessions Judge.....(all)

Sub: Launching of the "3rd Mission Mode Programme" as a special drive for reduction of Pendency in Courts from 01.07.2013 to 31.12.2013.

Sir,

I am directed to say that Hon'ble the Minister of Law & Justice, Govt. of India, New Delhi had addressed to the Hon'ble Chief Justice regarding Launching of the Mission Mode Programme as a special drive for reduction of Pendency in Courts from 01.07.2013 to 31.12.2013.

The Court, after careful consideration on the above matter, have been pleased to direct that the following measures be taken with immediate effect for reduction of Pendency of your judgship under the Mission Mode Programme.

1. A target be fixed for disposing all the matters up to year, 1998
By the end of December, 2013
2. As a special incentive, the disposal of cases up to the year, 1998 shall be given with double of the prescribed yardstick norms.
3. Special Lok Adalats be conducted for N.I. Act cases.
4. Specific Courts station-wise be designated to try & dispose of N.I. Act cases.
At the inception of trial of such cases, the Courts must inform the parties that the offence is compoundable.
5. Necessary steps be taken for maximum possible disposal of Petty cases during the Mission Mode Programme, utilizing the services of Shift courts.
6. Top priority be given for disposal of cases involving Sr. citizens, Minors, Disabled & other Marginalized groups.

7. Compiled figures of disposal from 1.7.2013 to 31.12.2013 & pendency at the end of the year, 2013 under this Programme be furnished to the Court by the end of 1st week of January, 2014.

PROFORMA

(Under Mission Mode Programme upto the year, 1998)

Name of the Judgeship	Opening Balance as on 01.07.2013		Disposed of From 01.07.2013 to 31.12.2013		Pendency as on 31.12.2013	
	Civil	Criminal	Civil	Criminal	Civil	Criminal
GRAND TOTAL						

Yours faithfully

A. K. Mishra

REGISTRAR (INSPECTION) I/C.

420

No. 6057(30) / Dated 17.07.2013

From

Shri. J. P .Das
Registrar General

To

The Dist. & Sessions Judge,.....(All)

Sub: Apex Court's Judgement dtd. 03.05.2013 passed in Criminal Appeal No. 689 of 2013 (Ankush Shivaji Gaikwad vrs. State of Maharashtra) providing guidelines for awarding compensation u/s 357 Cr.P.C. in justified cases.

Sir,

I am to say that the Hon'ble Supreme Court of India in Judgment dtd. 03.05.2013 passed in criminal Appeal No. 689 of 2013 (Ankush Shivaji Gaikwad vrs. State of Maharashtra) have issued guidelines for awarding compensation u/s 357 Cr.P.C in justified cases.

I am therefore directed to request you to follow the guidelines in the aforesaid judgment reported in SCALE 2013 (6) at Page No. 778.

Yours faithfully

J. P .Das

REGISTRAR GENERAL

No. 7254 (30) Dated 16.08.2013

From,

Dr. A.K. Mishra
Registrar (Administration)

To

The District & Sessions Judge(All)

Sub: Authorizing Sessions Judges & Additional Sessions Judges of the State to hear and dispose of cases U/s-36 (D) of N.D.P.S Act, 1985.

Sir,

I am directed to say that the Court are pleased to issue the following instructions, as detailed below, in modification of the earlier circular issued in Court's Letter No. 4110 (13) dtd. 26.05.1995 on the above noted subject.

1. At Stations where Sessions Judge is available, he alone shall receive complaint or police reports u/s.36-A (1) (D) of the NDPS Act and will deal with them according to law.
2. At Stations where only one Addl. Sessions Judges are posted, be shall receive compliant or police reports u/s.36-A (1) (d) of the NDPS Act and will deal with them according to law.
3. At Stations where more than one Addl. Sessions Judges are posted one of them, identified by the District & Sessions Judge of the said judgship shall receive compliant or police reports u/s. 36-A (1) (d) of the NDPS Act and will deal with them according to law.
4. All the Addl. Sessions Judges of the State are authorized to try and dispose of cases arising out of the NDPS Act, 1985 u/s.36-A (1)(d)

I am, therefore, directed to request you to kindly bring this to the notice of all concerned to deal with the cases relating to NDPS Act as per the aforesaid instructions scrupulously.

Yours faithfully,
A.K.MISHRA
REGISTRAR (ADMINISTRATION)

No. 7313(33)/ Dated 19.08.2013

From,

Shri S.N.Mishra,
Registrar (Inspection)

To

1. The District & Session Judge, Balasore/ Bhadrak/ Bolangir/ Sonapur/ Cutack/ Kendrapara/ Jagatsinghpur/ Jajpur/ Dhenkanal/ Angul/ Ganjam/ Gajapati/ Kalahandi/ Nuapada/ Keonjhar/ Khurda-Bhubaneswar/ Koraput/ Malkangiri/ Rayagada/ Nabarangpur/ Mayurbhanj/ Phulbani/ Boudh/ Puri/ Nayagarh/ Sambalpur/ Baragarh/ Deogarh/ Jharsuguda/ Sundargarh.
2. Spl. Judge, Spl. Court, Cuttack/Bhubaneswar
3. Spl. Judge, CBI, Bhubaneswar (1st & 2nd Court)

Sub: Disposal & Pendency of cases relating to women/Juvenile and under prevention of Corruption Act, 1988 in your Judgeship.

Sir,

While considering the pendency of above noted cases, the Court have been pleased to direct that the trial of cases relating to women, Juvenile & under Prevention of Corruption Act, 1988 be expedited & instruction be given to the Court concerned accordingly.

Further, the Statistical data as per Proforma-I be sent to the Court by 6th September 2013 positively and the statistical data as per Performa-II be sent to the Court in every month by 10th of the succeeding month positively henceforth by Fax/ E-mail for onward transmission of the same to the Hon'ble Supreme Court of India.

PROFORMA-I

Name of the Judgeship	Cases relating to	Opening Balance as on 01.06.2013	Disposed of during			Pendency as on 31.08.2013
			June	July	August	
1	2	3	4	5	6	7
	Women					
	Juvenile					
	P.C. Act					

PROFORMA-II (Monthly Statement during.....)

Name of the Judgeship	Cases relating to	Opening Balance	Institution/Received during the month	Disposed of during the month	Pendency at the end of the month
1	2	3	4	5	6
	Women				
	Juvenile				
	P.C. Act				

Yours faithfully,
 S.N.MISHRA
 REGISTRAR (INSPECTION)

No.8279 /Dated 24.09.2013

From

Shri.J.P.Das, O.S.J.S.(Sr.Branch)
Registrar General

To

The director, Public Prosecutions, Odisha, Bhubaneswar.

Sub:- Effective implementation of Juvenile Justice (C & PC) Act, 2000-Resolution of the Juvenile Justice Committee Dtd. 17.09.2013-reg.

Sir,

I am to say that in a meeting of the Juvenile Justice Committee held on 17.09.2013 it was resolved to direct to the Director of Public Prosecutors, Odisha to instruct the prosecutors conducting juvenile cases to expedite enquiries in juvenile cases which have been split up, on the ground of juvenility from cases in which adults are facing trial.

I am, therefore directed to request you to instruct the concerned Prosecutors accordingly.

This is for your information and necessary action.

Yours faithfully
J.P. DAS
REGISTREAR GENERAL

No. 8967(30) / Dated 23.10.2013

From

Shri. J.P .Das, O.S.J.S.(Sr.Branch)
Registrar General

To

The District & Sessions Judge.....(all)

Sub: Submission of Report regarding holding of P.M.C. Meetings between the Chief
Judicial Magistrates and Superintendent of Police of the respective Districts
during the year, 2013(From January to October).

Sir,

I am directed to request you to kindly furnish the Monthly report regarding holding of PMC meetings between the Chief Judicial Magistrate and the Superintendent of Police of the respective Districts during the year, 2013(For the months from January to October) along with the date, Place, agenda and reasons for not holding the same if any to this Court so as to reach by 28.10.2013 positively (through Fax / e-mail)

Further, you are requested to furnish the monthly report of PMC Meeting henceforth to this Court instead of furnishing the same Annually and the same be reached to this Court by 2nd Week of the succeeding month.

Yours faithfully
J.P .Das
REGISTRAR GENERAL

No.9073 (30) / Dated 25.10.2013

From

Shri S.N. Mishra
Registrar (Inspection)

To

The Dist. & Sessions Judge,.....(All)

Sub:- Guidelines & Submission of report to the High Court.

Sir,

I am directed to say that the Court have been pleased to direct that the following guidelines be followed strictly in addition to the guidelines already issued vide Court's Letter No. 5330 dated 29.06.2013.

This be brought to the notice of all concerned.

GUIDELINES

1. There should be a meeting of Judicial Officers at least once in a month on legal issues which shall be identified by the District Judge concerned. In the meeting, at least 2 to 3 latest Supreme Court decisions should be discussed and one of the participant officers should make a presentation which shall be followed by question answers and open discussion on the issues amongst officers. The Districts Judge concerned shall submit a quarterly report separately to the High Court in the matter.
2. Each officer shall separately note down the work done by him or her on each working day and submit a report daily to the District Judge concerned who shall submit a report on the work done (including his own out turn) at the end of the month to the High Court which will be considered for assessing the performance of the Officers.
3. The officers remanding the accused persons should be well aware of the rights of the UTPs as per guidelines issued from time to time by Hon'ble courts. The Guidelines have been compiled and available on the website of the High Court of Orissa.

4. All cases of UTPs where the custody period of the accused in Sessions cases is more than 2 years should be disposed of on priority basis, positively within six months and the Magisterial cases where custody period is more than six months should be disposed of positively within two months. Other cases of UTPs should be expedited and dealt with speedily as per law.

5. The Courts should follow the provisions of Section 357-A of the Code of Criminal Procedure relating to compensation as per the "The Odisha Victim Compensation Scheme 2012" and grant interim compensation suo motu or on application in appropriate cases. The scheme is available on the web-site homeorissa.Gov.in/schemes.

Yours faithfully
S.N. Mishra
REGISTRAR (INSPECTION)

No.9249 (30)/ Dated 01.11.2013

From

Shri S. N. Mishra
Registrar (Inspection)

To

The Dist. & Sessions Judge,.....(All)

Sub:- Guidelines for disposal of more cases for reduction of backlog as a Special drive.

Sir,

I am directed to send herewith the following guidelines in addition to all the earlier instructions given, for disposal of more cases for reduction of backlog as a special drive.

Guidelines

- (a) The Dist. Judge in the monthly meeting with the subordinates officers should ensure that the disposal of all Courts is ahead of the institution and to achieve the same, the District Judge should plan out the pendency of each Court.
- (b) The Dist. Judge shall impress upon the Chief Judicial Magistrate to instruct all the Magistrates to follow Section 258 Cr.P.C. to ensure that normally no case which can be covered by the said provision beyond one year remains pending.
- (c) While following the above instructions, all the Officers should endeavour to dispose of at least 5 cases each month out of the backlog shown to have been pending in the last month.

The above instructions be followed strictly and monthly compliance report be submitted, in the first week of the succeeding month, through the Court Manager of your Judgeship 'online' in the Proforma given below, to the Court Manager of the High Court.

Yours faithfully

S. N. MISHRA
REGISTRAR (INSPECTION)

PROFORMA

For the month-----

Name of the Court	Pendency of the last month	No. of cases disposed of in the month out of the backlog	No. of cases disposed of in the month u/s.258 Cr.P,C.
(1)	(2)	(3)	(4)

No. 9378 (30) /Dated. 06.11.2013

From

Shri S. N. Mishra
Registrar (Inspection)

To

The Dist. & Sessions Judge,.....(All)

Sub:- Expeditious disposal of cases in terms of Sec. 309 Cr. P.C.

Ref:- Hon'ble Court Letter / Circular No. 3220(27), dtd. 10.4.2013

Sir/ Madam,

I am directed to say that it has come to the notice of Hon'ble Court that the provisions of Sec. 309 Cr.P.C. is not being strictly adhered to in spite of instructions being given by the Hon'ble apex Court and by the Hon'ble High Court.

Therefore the Hon'ble Court upon consideration of the matter have been pleased to direct that

(i) The Sub-ordinate criminal courts shall issue summons and examine the material witnesses like informant injured and victim at the first instance of the recording of evidence.

Further, I am directed to say that, all Presiding Officers of the Criminal courts shall submit information as to:-

- (i) Whether the trial of the proceeding is continuing from day to day.
- (ii) Whether any adjournment or postponement of hearing is granted on condition of payment of cost and number of such cases during last one year.

Further, all the lower courts shall submit copy of order sheets of 5 oldest cases each on Civil and criminal pending in his/her court along with following information such as:-

- (i) Date of pendency in his / her Court
- (ii) Expected date of disposal
- (iii) Reasons of delay in disposal

The District judge shall compile & forward the above information of his judgeship along with copy of the Order Sheets to the Hon'ble Court online /E-mail through the Court Manager to the court Manager of the Hon'ble High Court within 15 days positively.

This may be treated as extremely urgent.

Yours faithfully,
S. N. MISHRA
REGISTRAR (INSPECTION)

No. 9756 (30) / Dated. 21.11.2013

From

Dr. A.K .Mishra, O.S.J.S. (Sr. Branch)
Registrar (Vigilance)

To

The District & Sessions Judge,(all)

Sub: Issuance of instruction regarding holding of judicial proceedings of sensitive matters relating to intelligence Agencies such as R & AW in camera in view of the resolution of the chief Justices' Conference, 2013.

Sir,

I am directed to say that on the proposal for issuance of instruction for holding of judicial proceedings of sensitive matters relating to Intelligence Agencies such as R & AW in camera the Court have been pleased to approve the proposal that proceedings in case of intelligence Organizations such as R & AW should be held in camera and names of officers concerned and information relating to them should not be published in the website.

I am therefore to request you to kindly follow the above instruction of the Court scrupulously and communicate the same to all concerned working under your control for their information and guidance.

Yours faithfully,
A.K .MISHRA,
REGISTRAR (VIGILANCE)

No. 9763 (30)/.Dated. 21.11.2013

From

Dr. A.K .Mishra, O.S.J.S. (Sr. Branch)
Registrar (Vigilance)

To

The District & Sessions Judge,(all)

Sub: -Instructions for conducting inquiry by the Judicial Officers under Section-176 (1-A) of the Cr. P.C. in case of disappearance or death of a person / women in the custody.

Sir,

I am directed to say that the Court have been pleased to issue instruction that the respective Dist. Judge is to depute a Judicial Magistrate under his control to conduct enquiry u/s-176 (1-A) of the Cr. P.C on receiving requisition from the S.P. or Collector of the District.

I am therefore to request you to kindly follow the above instruction of the Court scrupulously and communicate the same to all concerned for their information and guidance.

Yours faithfully,
A.K .Mishra
REGISTRAR (VIGILANCE)

No. 9893 (30) / Dated. 27.11.2013

From

Dr. A.K. Mishra.
Registrar (Vigilance)

To

The District & Sessions Judge,(All)

Sub:- Allocation of duties to the Head Typist working in the District and Sub-Ordinate Courts.

Sir,

I am directed to say that the Court while considering the representation of the All Orissa Judicial Employees Association have been pleased to modify the duties allocated to the Head Typists working in the District & Subordinate Courts vide Court's letter No. 3581 dtd. 09.05.1995 and recommended the duties as follows:-

1. To be in overall charge of the Copying Section, Typing Section and Comparing Section.
2. To receive applications for copies, to properly assess and notify the number of stamps and folios required and receive the same from the applicant/ applicants. The Head Typist is to hand over the counter-foil to the applicant tasking his/her signature on the application and shall be responsible for making the copies ready for delivery in time.
3. To make proper distribution of work amongst the Typists & the Copyists working in the Section subject to such direction as may be given by the Judge in charge.
4. To maintain all registers required to be used in the Section including the Stamp account register.
5. To check the out-turn of the staff working under, both old and new schemes and put up the concerned Registers before the Judge In-charge copying department for verification.
6. To supervise the work and performances of Sr. & Jr. Typists and Copyists.
7. To look to the proper maintenance of the Type writers and to ensure proper handling and repair of the Type writers and Roneo Machines.
8. To maintain the attendance Register of Typists & Copyists and to put up their leave applications before the judge in Charge.
9. To receive the papers and stationary articles for use in the Copying Section and to maintain the account thereof.

10. The Head Typist shall be responsible for the delay in preparation of copies, collection of documents and records of which copies are required and for return of those to the proper office promptly.
11. To do comparing work along with the other comparing Clerk of the copying Section.
12. To type out correspondences etc. at the time of necessity and to attend to any other duties as and when entrusted to him/her by the District Judge/ Judge in Charge.

The Court have been further recommended that wherever the post of Head typist is not available, the Head Comparing clerk would continue to discharge the duties as are assigned to him/her under the existing rule of the G.R & C.O (Civil) Volume-I and G.R & C.O. (Criminal) Volume-I.

Yours faithfully
A.K. MISHRA
REGISTRAR (VIGILANCE)

No. 1264 (30)/ Dated. 07.02.2014

From

Shri. J .P. Das,
Registrar General

To

The District & Sessions Judge,(All)

Sub:- Apex Court's direction in Criminal Appeal No. 259/2009 dtd. 20.1.2014- in cases where poisoning is suspected it is to ensure by the Criminal Courts that the viscera is sent to FSI and FSL report is obtained.

Sir,

I am directed to say that the Apex Court vide judgment dtd. 20.1.2014 passed in Criminal Appeal No. 259/2009 (Joshinder Yadav Vrs. State of Bihar) have directed that in cases poisoning is suspected, it would be advisable and in the interest of justice to ensure that the viscera is sent to the FSL and FSL report is obtained. This is because not in all cases is adequate strong other evidence on record to prove that the deceased was administered poison by the accused

This is for your information and communication to all Subordinate Criminal Courts functioning in your jurisdiction for their information and guidance.

For details please visit the Supreme Court's website.

Yours faithfully,

J .P. Das

REGISTRAR GENERAL

No. 1369/1370/Dated. 10.02.2014

From

Shri S. N. Mishra, O.S.J.S (Sr. Branch)
The Registrar (Inspection)

To

The Dist. & Sessions Judge,.....(All)

Sub:- Appointment of Addl. District Judges as visitors to visit Observation Homes & Special Homes as well as the Children Homes of the States and to submit report to the High Court in this regard.

Sir,

I am directed to say that the Court while considering the proposal on the above mentioned subject made by Hon'ble Shri Justice Madan B. Lokur, Judge, Supreme court of India, have been pleased to observe that the Addl. Dist. Judges, Berhampur, Rourkela and Angul shall visit the Observation Homes/ Special Homes & Children Homes at Berhampur, Rourkela and Angul respectively in every month and other Addl. District Judges shall visit the Children Homes of their respective judgships every month and submit report to this Court for consideration of the Juvenile Justice Committee.

In enclosing here with a copy of Notifications No. 21197 dtd.30.10.2004, No.7711 dtd.03.03.2006 and No. 10293 dtd. 27.04.2007 issued by the Govt, of Odisha, Women & Child Development Department, I am to request you to kindly instruct the Addl. District Judge of your judgship (nominate one of the Addl. District judges where there are more than one) to visit the Children Homes of your Judgship in every month without detriment to their judicial work and to submit report to this Court for being placed before the Hon'ble Juvenile Justice Committee.

Yours faithfully

S. N. Mishra

REGISTRAR (INSPECTION)

438

No. 3827 (30)/ Dated 26.04.2014

From

Shri S. N. Mishra,
Registrar (Inspection & Enquiry)

To

The District & Sessions Judge,(All)

Sub: Further Instructions / Guidelines for day to day business of the Civil & Criminal Courts of the State.

Ref;- Court's Letter no. 9378 dtd. 06.11.2013 & No.328 dtd 13.01.2014.

Sir/Madam,

I am directed to say that upon analysis and evaluation of the copies of Order Sheets of 5 oldest Civil and Criminal cases of the Subordinate Courts of the State, taking into account the view points of the District Judges on the matter and after careful consideration of all aspects, the Hon'ble Court have been pleased to issue a set of Instructions /Guidelines in addition to, all earlier instructions imparted by this Court to the Subordinate Courts from time to time.

I am, therefore, to request you to follow the enclosed instructions/ guidelines of the Court and to bring to the notice of all the Subordinate Courts working under your jurisdiction for guidance and compliance.

Yours faithfully
S. N. MISHRA
REGISTRAR (I&E)

Encl:-*Instructions (2sheets)*

INSTRUCTIONS TO SUB-ORDINATE COURTS AFTER EVALUATION OF ORDER-SHEETS OF 5 OLDEST CASES OF ALL COURTS.

CIVIL

1. Civil Courts should strictly adhere to the provisions of Order-10 C.P.C.
2. Civil Courts should resort to Section-89 CPC in the first place to bring about settlement of disputes outside the Court.
3. All endeavors should be made to dispose of interim applications U/O.39 & 40 CPC and miscellaneous petitions such as amendment petition and substitution petition as quickly as possible.
4. Adjournments should not be granted on mere asking or casually. While granting time or adjourning a case, the mandate of the provision of Order-17 C.P.C should be kept in view and the reason(s) necessitating adjournment should be recorded in the order-sheet.
5. A plan of action should be formulated by each court for disposal of old cases and the same be brought to the notice of the District Judge who shall monitor progress and issue appropriate instructions as he deems proper.
6. No appeal should be transferred from the District Court to any other Appellate Court without the original case record / LCR.
7. Over dependence on ministerial staff for day to day judicial work is found to be one of the main reasons for lingering of cases. The Presiding Officers should endeavour to verify personally case records while passing day to day orders, which will help them to exercise control over their Courts.
8. Periodic review/ assessment of performance of process serving establishment should be seriously done. Other modes of service of summons/ notices, legally permissible should also be explored.
9. Utmost importance should be given to disposal of execution cases.
10. Day to day posting of cases should be done intelligently and realistically with the object of putting valuable time of the Court to optimum use. There should not be overloading in posting; balance between old cases & new cases should be maintained. Posting of cases should not be left to the Bench clerk.

CRIMINAL

1. Police papers should be supplied to the accused as quickly as possible.
2. Cognizance of offences should be taken without delay, with due application of mind.
3. Cases should not suffer multiple adjournments for hearing on the question of charge.
4. In every enquiry or trial the provisions u/s. 309 Cr.P.C. should be strictly adhered to
5. Adjournment should not be granted casually or on mere asking. While granting adjournment, the reason(s) necessitating adjournment should be recorded.
6. Summons to witnesses should not be issued in a routine manner. Scrutiny of list of witnesses should be made to choose important / vital witnesses who can be examined first.
7. Delay in disposal of large number of criminal cases has been occasioned due to non-attendance of vital official witnesses such as Doctors & Investigating Officers. All efforts should be made securing attendance of such witnesses during trial.
8. U.T.P. Cases are to be handled differently & every effort should be made for expeditious disposal of such case.
9. Large numbers of cases are pending for execution of warrants by police. During discussion with the S.P in the monthly Senior Officers meetings & P.M.C. meetings, the Sessions Judge and the CJM should lay utmost importance on prompt execution of pending warrants. Non-attendance of official witnesses should also be kept in the agenda of such meetings.
10. Day to day posting of cases should be done intelligently and realistically with the object of putting valuable time of the Court to optimum use. There should not be overloading in posting; balance between old cases & new cases should be maintained. Posting of cases should not be left to the Bench Clerk.
11. Cases which are lingering because the accused is/are untraceable may be placed in dormant file with promptitude after exhausting all procedural requirements.

No. 3995(30)/ Dated 01.05.2014

From

Shri A.K.Mishra
Registrar (Vigilance)

To

The District & Sessions Judge,(All)

Sub: Holding of monthly meeting of Senior Officers to find out ways and means and to solve various for expeditious disposal of criminal cases.

Sir,

In partial modification of Court's earlier Circular letter No. 8487 (26) Dtd. 13.09.1993 on the subject cited above, I am directed to say that in order to obviate the difficulties in holding monthly meeting of Senior Officers in the office room of the District Magistrates and District Judges alternatively, the court upon reconsideration of the matter have been pleased to observe that all the monthly meeting of the Senior officers in the District be held in the Chambers/ Residence of the District Judges. The District Judges will not attend any such meeting in the office of the Collector.

I am accordingly, request you that the above instructions of the Court be followed in future.

Yours faithfully,
A.K.MISHRA
REGISTRAR (VIGILANCE)I/c

No. 6156 (30) /Dated. 16.07.2014

From

Shri.J.P.Das, O.S.J.S.(Sr.Branch)
Registrar General

To

The District & Sessions Judge,(All)

Sub: Apex Court's Judgment Dtd. 02.07.2014 passed in Criminal Appeal No. 1277 of 2014 (Arnesh Kumar Vrs. State of Bihar and Anr.)-dealing with cases u/s 498-A I.P.C.-reg.

Sir,

I am directed to say that the Hon'ble Apex Court have issued certain direction in the Judgment Dtd. 02.07.2014 passed in Criminal Appeal No. 1277 of 2014(Arnesh Kumar Vrs. State of Bihar and Anr.) to be followed by the Investigating Agency and the Trial courts while dealing with cases u/s -498-A IPC.

You may download the above judgment from Hon'ble the Supreme Court's official website for your information and guidance of all the Criminal Courts functioning in your Judgeship.

Yours faithfully,
J.P. DAS
REGISTRAR GENERAL

No.6456 (30)/ Dated. 24.07.2014

From

Shri B. K. Mohapatra
Registrar (Inspection)

To

The District & Sessions Judge,(All)

Sub: Furnishing certificate in the Bail Petition filed under Section-439 of Cr.P.C of 1973/ High Court Order Dtd. 07.07.2014 passed in BLAPL No. 11734 of 2014.

Sir,

I am directed to communicate herewith a copy of Court's Order Dtd. 07.07.2014 passed in BLAPL No. 11734 of 2014 (Bansidhar Pradhan vrs. State) along with the copies of Court's circulars letter No. 3447 Dtd. 30.03.1984 and No. 6973 Dtd. 01.10.1996, on the subject cited above for your information and for circulation amongst all Criminal Courts subordinate to you for their information, with a direction for strict observance of the same while entertaining prayer for bail.

Yours faithfully
B. K. MOHAPATRA
REGISTRAR (INSPECTION)

IN THE HIGH COURT OF ORISSA, CUTTACK

Bansidhar Pradhan

....petitioner

Verses

State

.....Opposite party

BLAPL No.11734 of 2014

ORDER dated 07.07.2014

It is stated by the learned counsel for the petitioner that the petitioner in this case having already been released on bail by the Court below, he does not want to press this bail application. From the statement of the learned counsel for the petitioner, it appears that when this Court was in seisin over the matter, the trial Court was also approached simultaneously. The same is not permissible in the law, inasmuch as simultaneously a person cannot approach two forums having the concurrent jurisdiction. Hence, issue notice to the petitioner as to why suitable action shall not be taken against him for polluting course of justice. The show-cause reply must be filed by the petitioner by remaining present in this Court on 11.08.2014 positively, failing which coercive steps shall be taken against him to cause his production. A report also be called for from the Sessions Judge, Bhadrak as to whether petitioner Bansidhar Pradhan, who was released on bail as stated by the learned counsel for the petitioner, had filed a petition under Section 439 Cr.P.C. after 15.05.2014 and if so, the date of disposal and the result thereof. Such report must reach this Court by 11.08.2014.

List this matter on 14.08.2014.

It appears that in many cases under Section 439 Cr.P.C., the accused persons are approaching both the forums simultaneously. In spite of the Circulars issued by this Court, in many cases, Session Judges are also not looking to the fact that whether a certificate has been furnished by the counsel indicating therein that during non-pendency of such bail petition before any other forum So also, though a circular was issued by this Court that on the date the bail petition is taken up for

hearing, counsel must file a memorandum stating therein that no other application for bail is pending in any other Court. In spite of the direction of this Court vide Circular No.3447 dated 30.03.1984 of this Court and the subsequent Circular No.6973 dated 01.10.1996, it is seen that the same is observed more in breach and as such, resulting in conflicting orders. The Session Judges, Additional Session Judges and Assistant Session Judges of the State while exercising the power under Section 439 of Cr.P.C., therefore, must adhere to the Circulars issued by this Court while dealing with the petition under Section 439 Cr.P.C. hereinafter strictly.

Therefore, the Registrar (Inspection and Enquiry) is directed to circulate this order along with the aforesaid Circulars issued by this Court in this regard among all the Session Judges throughout the State once again, who in turn shall circulate the same among the Officers with a direction to strictly observe the aforesaid while entertaining the prayer for bail.

S. PUJAHARI. J

No. 7927(30)/ Dated 05.09.2014

From

Shri B.K.Mohapatra
Registrar (Inspection)

To

The Dist & Sessions Judge,.....(All)

Sub: Timely submission of periodical statements.

Sir/Madam,

It is very often noticed that the quarterly statements, both on civil side and Criminal side, are not being submitted to the court in time which results in consequential delay in reviewing the same at this level. Further, sometimes piece meal or incomplete/inaccurate statements are received which necessitates repeated telephonic queries or paper correspondences.

In this context, may I invite a reference to the Rules 447, 447-A, 448etc. of GR & CO (Civil) Vol-I and Rule 336, 337, 338 etc. of the GR & CO (Criminal) Vol-I.

In the premises, I am to request you to kindly ensure dispatch of complete and accurate quarterly statements on civil side on or before the 25th of the month next succeeding the quarter and those on criminal side by the last day of the month next succeeding the quarter to which the statements relate, henceforth.

Yours faithfully,
B.K.MOHAPATRA
REGISTRAR (INSPECTION)

No. 8017(44)/ Dated. 09.09.2014

From

Shri B. N. Mohanty,
Registrar (Vigilance)

To

1. The District & Sessions Judge,.....(All)
2. The Special Judge (Vigilance).....(All)
3. The Special Judge (C.B.I), Bhubaneswar

Sub: Reflecting status of accused person(s) in the judgment.

Sir,

I am directed to say that all the Criminal Courts of the State while pronouncing the judgment in separate sheet shall reflect therein the status of the accused person/persons i.e. (1) in custody (2) on bail (3) represented u/s-205/317 of the Cr.P.C (4) absent or (5) present as the case may be in addition to mentioning about the same in the Order sheet of the case records.

This is for your information, necessary action and communication to all the Judicial Officers working under your judgeship for their guidance.

Yours faithfully,
B. N. MOHANTY
REGISTRAR (VIGILANCE) I/c

448

No. 9921 (30)/ Dated. 18.11.2014

From

Shri J. P. Das, OS.J.S.(Sr. Branch)
Registrar General

To

The District & Sessions Judge.....(All)

Sub: Implementation of guidelines issued by the Govt. of India, Ministry of Home Affairs (C.S. Division), New Delhi on reckoning half life of time spent in judicial custody of UTPs u/s -436-A of Cr.P.C.

Sir,

I am directed to enclose herewith a copy of Guidelines framed by Govt. of India, Ministry of Home Affairs (C.S. Division), New Delhi on the above subject for your strict guidance. Further necessary instruction be issued to all the Judicial Magistrates working in your jurisdiction for their strict adherence.

Yours faithfully
J. P. DAS
REGISTRAR GENERAL

Encl:-Copy of Guidelines framed by Govt. of India, Ministry of Home Affairs (C.S. Division), New Delhi.

No.V-17013/24/2013-PR
Government of India
Ministry of Home Affairs
(CS Division)

5th Floor, NDCC-II Building
Jai Singh road,
New Delhi, the 27th September 2014

To

- 1) The Additional Chief Secretary (Home)/ Principal Secretary (Home Department)/ Principles Secretary (Prisons)/
- 2) DG (Prisons)/ IG (Prisons) of all States/UTs

Sub: Guidelines on reckoning half-life of time spent in judicial custody of Under-trial prisoners under section 436A of Cr.P.C.

Sir/Madam,

1. The State Governments and Union Territories have been requested to adopt various measures related to reduction in overcrowding by advisories dated 9th May 2011 ¹ and 17th January 2013 ² of the Ministry of Home Affairs by focusing on the release of under-trial prisoners(UTPs) who have spent more than half the period of their likely sentence u/s 436A of the Cr.P.C. It is seen that nearly 2/3rd of those incarcerated are UTPs and this ratio has remained constant lately. In many cases accused persons are kept in prison for very long periods as UTPs and are eligible to set-off u/s 428 of the Cr.P.C. In some cases the sentence of imprisonment ultimately awarded is a fraction of the period spent in jail as UTP. In some other cases the UTPs have even been acquitted. In many cases the accused person is made to suffer jail life for a period out of all proportion to the gravity of the offence or even to the punishment provided in the statute. As per the Advisory dated 17th January 2013 all the States/ UTs have been asked to prepare lists of those UTPs who have completed half of their likely sentence (half-life) in prison so that the same could be taken up for review by the UTP review committees and the District Legal Service Authorities and they could be released on bail by the concerned Judge/Magistrate.

2. The Supreme Court has also been seized of this issue and being concerned has in Bhim Singh Vs. UOI and others. In W.P. (Crl.) No. 310/2005 on 7th September,2014, issued the following directions.

"We, accordingly, direct that jurisdictional Magistrate/ Chief Judicial Magistrate/ Sessions Judge shall hold one sitting in a week. In each jail/ prison for two months commencing from 1st October, 2014 for the purpose of effective implementation of 436A of the Code of Criminal Procedure. In its sittings in jail the above judicial officers shall identify the under-trial prisoners who have completed half period of the maximum period or maximum period of imprisonment provided for the said offence under the law and after complying with the procedure prescribed under section 436A pass an appropriate order in jail itself for release of such under trial prisoners who fulfill the requirement of Section 436A for their release immediately. Such jurisdictional Magistrate/Chief Judicial Magistrate/ Sessions Judge shall submit the report of each of such sitting to the Registrar General of the High Court and at the end of two months., the Registrar General of each High Court shall submit the report to the Secretary General of this Court without any delay."

To facilitate the compliance of the above order, we direct the jail Superintendent of each jail/ prison to provide all necessary facilities for holding the court sitting by the above judicial officers. A copy of this order shall be sent to the Registrar General of each High Court who in turn will communicate the copy of the order to all Sessions Judges within his State for necessary compliance."

3. Now it is essential that the order of the Supreme Court should be implemented earnestly. For reckoning the half-life of such UTPs, the principles of set off enunciated in section 428 of the Cr.P.C need to be considered particularly for those UTPs who have been arrested for more than one offence and the cases are pending in different courts under difference jurisdictions. An analysis has found that there are difficulties in determining the half-life of a sentence and hence States/ UTs are advised to following these guidelines for various scenarios as to the half-life that should be reckoned for a UTP who is to be taken up for review:

(a). **For those UTPs arrested for only one offence:-** the period of detention in prison during investigation, enquiry or trial in that case is to be considered for the purpose of reckoning half-life. He would be eligible for bail for the purpose of 436A of Cr.P.C. if he has been detained in prison for half the maximum tariff prescribed as a punishment for the offence.

(b) **For those UTPs arrested for more than one offence in the same case: -** Where each of those offences attract separate sentences of differing lengths, one lesser and the other larger, his period of half-life would be reckoned from the date of detention, and even when the half-life is over for the lesser offence he would continue in detention till the half-life of the sentence is over for the other graver offence which attracts a longer sentence.

(c) For those UTPs arrested and being tried for more than one offence in separate cases:- Where each of those offences attract separate sentences of differing lengths, one lesser and the other longer, the periods of detention for both cases would be reckoned separately from the date of arrest if separate.

As an illustration A is arrested on 01.01.2012 for an offence of theft u/s 379 of IPC which attracts a maximum punishment of 3 years. While in detention he is also declared an accused/accomplice in another offence u/s 239 of IPC for an offence of delivery of counterfeiting of coins which attracts a punishment of 5 years. The half-life of sentence to be reckoned would be respect to the second offence.

For further clarity, in another illustration, if A completes his half life for the first offence, where his detention is reckoned from 01.01.2012, his date of arrest, and is released on bail after 1 year 6months and commits the second offence u/s 239 IPC while on bail, and is arrested again say on 01.08.2013, his half life would now be considered from his second date of arrest without the benefit of setting off his earlier detention period.

It may be mentioned that for all the above cases, where the maximum tariff is life imprisonment for an offence committed by a UTP, then u/s 57 of IPC, life imprisonment should be considered should be 20 years imprisonment for which the half-life would be 10 years u/s 436A of Cr.P.C.

4. Action taken to prepare such lists of UTPs for review under s 436 A may be completed in a time bound manner. In addition, a permanent mechanism should be put in a place for such scrutiny and short-listing of eligible UTPs to provide them relief and reduce overcrowding in prisons.

The receipt of this advisory may please be acknowledged.

Yours sincerely,

Sd/-

(S.Suresh Kumar)

Joint Secretary to the Govt. of India

Tel-23438100

Email:jscs@nic.in

No.10272(30)/Dated. 29.11.2014

From

Shri B.K.Mohapatra
Registrar (Inspection),

To

The District & Sessions Judge,.....(All)

Sub: Sharing of information relating to status of the applications made under the PWDV Act, 2005, with the Protection Officers.

Sir,

I am directed to say that the Court on considering the letter of request bearing No.-18765 dtd. 17.11.2014 received from the Director, Social Welfare and Addl. Secretary to Govt. of Odisha, Bhubaneswar, have been pleased to direct that suitable instruction be issued by the District & Sessions Judges to the Magistrates working in the judgeships and dealing with the cases under the Protection of Women from Domestic Violence Act, 2005, to share necessary information relating to the status of the applications made under the said Act, with the Protection Officers working in the respective districts.

In enclosing herewith a copy of letter referred to above along with enclosures received from the Director, Social Welfare and Addl. Secretary to Govt. of Odisha, W & CD Department, I am, therefore, to request you to issue necessary instruction to the Magistrates of your Judgeship dealing with the cases under PWDV Act, to provide necessary information to the Protection Officers, as sought for.

Yours faithfully
B. K. MOHAPATRA
REGISTRAR (INSPECTION)

Government of Odisha
Women & Child Development Department
No. WCD-WW-SCHM-1-0001/2014 18765 / WCD dt17-11-14

From

Smt Aswathy S.IAS
Director, Social Welfare &
Addl. Secretary to Govt.

To

The Registrar
High Court of Odisha Cuttack

Sub: Status of Domestic Incident Reports (DIR) filed under the PWDV Act

Madam/Sir.

With reference to the subject cited above, it is brought to your kind notice that as per the Protection of Women from Domestic Violence Act 2005, Protection Officers need to be appointed by the State Govt (as per Sub-section 1 of Section 8) in each district in this regard, the Govt of Odisha vide notification of Women & Child Development Dept III- WP-33/2006/7621/WCD dated 20.3.2007 has appointed the Programme Officers of the districts under the Deptt, as the Protection Officers in the concerned district.

Further as per the Act (Section 9), it shall be the duty of the Protection Officers among others to assist the Magistrate in the discharge of his/her function under the Act by making Domestic Incident Report (DIR) and to submit application to the Magistrate for required orders. It is stipulated that the State Govt should co-ordinate between various service providers dealing with law to address issues of domestic violence and periodic review of the same is done (section 11). There is also a reporting system on Quarterly basis as instructed by the Ministry of Women & Child Development vide D.O. no. 17/5/2006/WW dated 29.12.2006 which is to be compiled by the Protection Officers (enclosed)

Thus in view of the above, it is vital that the Protection Officers know the status of the application forwarded to the Magistrate under the Protection of Women from Domestic Violence Act 2005. Therefore it is requested to kindly instruct the Hon'ble judges in the district courts who deal with the Act to share the status of the applications made under the said Act, with the Protection officers. This will facilitate the Protection Officers to function more effectively towards implementation of the Act and will also be instrumental in augmenting efforts of the State Government.

Yours faithfully

Sd/-

Director, Social Welfare &

Addl. Secretary to Govt

No. 10898 (30)/Dated. 19.12.2014

From

Shri. B.N. Mohanty,
Registrar (Vigilance)

To

The District & Sessions Judge,(All)

Sub: Expeditious disposal of cases under R.P (U.P) Act, 1966 pending in different
Courts of the State-Submissions of monthly review report-reg.

Sir,

I am directed to say that the Court while considering the matter on the subject cited above, have been pleased to direct the concerned Courts to dispose of the cases up to the year 2010 within six months here from and the cases beyond the year 2010 within nine months. You are further directed to make a monthly review of the progress and submit report to this Court by 10th of every succeeding month.

I am therefore, to request you to submit the report to this Court by 10th of each month positively, by Fax/e-Mail for being placed before the Hon'ble Court.

Yours faithfully,

B.N. MOHANTY

REGISTRAR (VIGILANCE)-I/C

NO.829/(30) Dated 31.01.2015

From

Shri J.P. Das, O.S.J.S.
Registrar General

To

The District & Sessions Judge,(All)

Sub: Directives of the Hon'ble Supreme Court of India Dtd. 21.01.2015 passed in Criminal Appeal No. 554/2012 (Vinod Kumar Vrs State of Punjab) regarding procedures to be followed and avoidance of unwarranted adjournments in criminal trials.

Sir,

I am directed to say that the Hon'ble Supreme Court of India vide order Dtd. 21.01.2015 passed in Criminal Appeal No-554/2012 (Vinod Kumar Vrs State of Punjab) have directed not to grant unwarranted adjournments for cross examination of a witness at their pleasure or at the leisure of the defence counsel and also directed to circulate the said judgment among the trial Judges with a command to follow the principles relating to trial in a requisite manner.

I am therefore, to request you to download the copy of the aforesaid judgment from the Supreme Court's website and circulate the same to all the trial Courts functioning in your jurisdiction for their information and strict adherence.

Yours faithfully,

J.P. Das
REGISTRAR GENERAL

NO.3858 (30) /Dated 24.04.2015

From

Shri S.N. Mishra
Registrar (Vigilance)

To

The District & Sessions Judge,.....(All)

Sub: Apex Court's Judgment Dtd. 19.03.2015 passed in Criminal Appeal No. 781 of 2012 (Priyanka Sribastava Vrs. State of U.P & Ors)-dealing with cases u/s - 156 (3) Cr.P.C.- reg.

Sir,

I am directed to say that the Hon'ble Apex Court have issued certain directions in the judgment Dtd. 19.03.2015 passed in Criminal appeal No. 781 of 2012 (Priyanka Sribastava Vrs. State of U.P & Ors) to the Magistrate that they should exercise powers u/s -156(3) of the Cr.P.C while dealing with the cases under SARFAESI Act, 2002.

You are, therefore, requested to download the copy of aforesaid judgment from the official website of Hon'ble the Supreme Court of India for your information and communication of the same to all the Judicial Magistrates working under your jurisdiction for their information and guidance.

Yours faithfully,
S.N. MISHRA
REGISTRAR (VIGILANCE) I/C

No. 6045(30) Dated 17.07.2015

From,

Registrar (Inspection)
Orissa High Court, Cuttack.

To,

The District and Sessions judge.....(All)

Sub: Engagement of State Defence Counsel and maintenance of a Register for payment of fees against the bills submitted by the State Defence Counsel.

Sir,

It has come to notice of the Hon'ble Court regarding alleged irregularities on repeated bills submitted by the State Defence Counsel, the Court after careful consideration of the matter have been pleased to direct as follows:-

1. The Sessions Judge shall prepare a panel of Legal practitioners with their consent for courts of Sessions and each Magisterial station in his Sessions Division, keeping in view the need of such station, for being appointed as State Defence Counsel every calendar year as per the provisions of Rule 65 of G.R. & C.O.(CrI.), Volume-I.
2. The Sessions Judge and other Judicial Officers are instructed to engage SDCs on rotation basis considering nature of cases and to avoid engaging particular SDCs in number of cases.
3. The Sessions Judge and other Judicial Officers of the Judgeship are instructed that while endorsing certificates for payment submitted by the SDCs, they must personally verify statement of certificates with the connected case records while sanctioning the SDCs claim bills. Further, the SDCs are to present their bills within seven days of disposal of the case and the courts concerned shall complete verification of the bill within a fortnight of submission of the same.
4. Further, keeping in view the increase in number of cases requiring engagement of SDCs, a Register preferably a computerized one should be maintained by the Accounts Section of the District Court to keep note of details of such engagements in a systematic manner, for avoiding payment on repeat bills, if any, submitted by the SDCs.

I am directed to request you to follow the guidelines and to strictly adhere the same.

Yours faithfully,
Sd/-
REGISTRAR (INSPECTION)

NO. 6340 (30) / Dated 27.07.2015

From

Shri A. K .Mishra, O.S.J.S. (Sr. Branch)
Registrar General

To

The District & Sessions Judge,(All)

Sub: Judgment Dtd. 02.07.2015 passed in Criminal Appeal No. 249/1992
(Benudhar Mahalik and Anr Vrs. State of Orissa)

Sir,

I am directed to forward herewith a copy of the Judgment Dtd. 02.07.2015 passed by the Hon'ble High Court of Orissa in Criminal Appeal No. 249/1992 (Benudhar Mahalik and Anr Vrs. State of Orissa) for your information and guidance and communication to all the Courts subordinate to you for their strict guidance.

Yours faithfully,
A.K .MISHRA
REGISTRAR GENERAL

No. 6624 (30)/ Dated 31.07.2015

From

Shri G. Sharma
Registrar (Vigilance)

To

The District & Sessions judge,(All)

Sub: Maintenance of "Common Register to identify the factors that cause delay in the administration of criminal justice."

Sir,

I am directed to say that the Court have been pleased to accept the recommendations of Dr. A.P.J. Kalam, former President of India for maintenance of a common Register to identify the factors that cause delay in the administration of criminal justice.

I am, therefore, to request you to maintain the Register as per the enclosed proforma in your Court to identify the factors that cause delay in the administration of criminal justice.

Yours faithfully,
G. SHARMA
REGISTRAR (VIGILANCE)

Encl:-Format for the Register

461

PROFORMA

Common Register to identify the factors that cause delay in the administration of criminal Justice

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.
Name of the accused	Number of the case	Substance of complaint (with FIR No).	Number and date of Investigation report	Period spent on Investigation	Reasons for delay, Investigation report is after 60 days of commission of offence	Offence prima facie found by police	Offence charged by the Court after police report/ examination of complainant	Commencement of evidence	Closure of evidence	Period spent on trial	Reasons for delay in trial if the period was beyond one month	Date of Judgment	Reason for delay, if the Judgment was made after one month of closure of evidence	Explanation for the delay

No.8231(30) Dated 21.09.2015

From,

Shri G. Sharma,
Registrar General.

To

The District & Sessions judge,.....(All)

Sub- Compliance of the directions of the State Court Management System Committee.

Sir,

I am directed to say that, the State Court Management System Committee on careful consideration of the Vision Documents received from the District & Sessions Judges of the State have been pleased to observe as follows:-

(1)All the District Judges are to be requested to give effect to their respective plan of action furnished in their Vision Documents in the Light of directives of the N.C.M.S and the Vision Document prepared by the Hon'ble Court.

xx

xx

xx

(5)A District Court Management System Committee to be formed comprising of the District & Sessions Judge, Addl. District & Sessions Judge and Chief Judicial Magistrate with the Court Manager, as its Nodal Officer, the Committee to monitor the plan of action as suggested.

I am, therefore, to request you to follow the above directions of the Hon'ble Committee in Letter and spirit and report compliance.

This is for your information and necessary action.

Yours faithfully,

G. Sharma

REGISTRAR GENERAL

463

No. 9070(30)/Dated 14.10.2015.

From

Shri G. Sharma, O.S.J.S.
Registrar General.

To

The District & Sessions Judge..... (all).

Sub: Order No. 2 dated 13.10.2015 of the Hon'ble Court passed in BLAPL No. 5472 of 2015.

Sir,

With reference to the subject cited above, I am directed to send herewith a copy of Order No. 2 dated 13.10.2015 of the Hon'ble court passed in BLAPL No. 5472 of 2015 (Shayam Sundar Singh -Vrs.-State of Orissa) for your information and necessary action.

You are further directed to circulate the aforesaid order of the Hon'ble Court to all the Additional Sessions Judges, Assistant Sessions Judges and Magistrates working under your jurisdiction for their information and guidance.

Yours faithfully,

G. SHARMA

REGISTRAR GENERAL

Encl:-As Above

IN THE HIGH COURT OF ORISSA, CUTTACK

Shayam Sundar Singh petitioner

State of Orissa opposite party

BLAPL No. 5472 of 2015
Date of Order 13.10.2015

Learned counsel for the State submits that he has not received the Case diary as well as criminal antecedents of the petitioner and seeks some time to obtain the same.

Permission is granted.

It has come to the notice of this Court while adjudicating applications under section 439 Cr.P.C. that the rejection orders which are annexed to the bail applications, in most of the cases, do not contain the complete order but only extract of the operative portion of the order. It is becoming difficult to know on what basis the bail application of the accused was rejected. When an accused files a bail application and contentions are raised on behalf of his counsel to released him on bail, in the event of rejection of the bail application, the accused has a right to know as to whether the contentions raised on his behalf have been dealt with by the Court or not and also what was the reason for rejecting the bail application. The complete rejection order, if furnished to the accused would enable also the higher Court to appreciate the matter properly. Furnishing extract of the operative portion of the rejection order is no way helpful either to the accused or to the higher Court where bail is sought for. In the interest of justice, it is directed that the Courts while rejecting the bail applications should furnish the complete order to the accused free of cost.

Let a copy of this order be sent to the learned Registrar General of this Court for onward communication to all the learned District and Sessions Judges for their information and necessary action at their end who in turn are expected to communicate to all the learned Addl. Sessions Judges, Assistant Sessions Judges and Magistrates under their respective jurisdiction about the same.

List this matter after ensuring Puja Holidays.

S.K. Sahoo, J.

NO. 9466(47) / Dated 28.10.2015

From

Shri M.R. TRIPATHY
Registrar (Vigilance)

To

1. The District & Sessions Judge,(All)
2. The Judge, Family Court,.....(All)

Sub: Disposal of adoption cases.

Sir,

I am directed to forward herewith a copy of letter No. 1739 Dtd. 03.09.2015 received from the Director, Odisha State Child Protection Society, Bhubaneswar along with the enclosures for your information and to request you to take necessary steps for early disposal of the adoption cases pending in your Court and report compliance at the end of every month to place the same before the Hon'ble Court.

Yours faithfully,
M.R. TRIPATHY
REGISTRAR (VIGILANCE)

466

No. 9604 (30) Dated 02.11.2015

From,

Shri T.P.Rath,
Central Project Co-ordinator.

To

The District & Sessions judge.....(All)

Sub: Submission of monthly progress report regarding action taken on the plan of action furnished in your Vision Documents prepared in the Light of directives of the NCMS and the Vision Document prepared by the High Court.

Sir,

I am directed to say that it was resolved in Paragraph-1 of the resolution of the meeting the State Court Management System Committee held on 15.09.2015 that all the District Judges are to be requested to give effect to their respective plan of action furnished in their Vision Documents in the Light of directives of the N.C.M.S and the Vision Document prepared by the Hon'ble Court.

I am, therefore, to request you to hold monthly meeting of the District Court Management System Committee in each month to give effect to the plan of action furnished in your Vision Documents even in absence of any Member (either on leave or otherwise) and to submit report on the progress achieved in this regard, to this Court on or before 5th of every succeeding month, positively for onward transmission of the same of the Hon'ble NCMS Committee. Supreme Court of India, New Delhi by 7th of that month, as desired.

Yours faithfully,

T.P.Rath

CENTRAL PROJECT CO-ORDINATOR

No. 632 (30) Dated 20.01.2016

From

Shri R. Mohapatra
Member-Secretary, SCMS Committee.

To,

The District & Sessions Judge,.....(All)

Sub: Resolution passed in the meeting of the State Court Management System (SCMS) Committee held on 07.01.2016.

Sir,

I am directed to say that in pursuance of the resolution passed in the meeting of the State Court Management Systems (SCMS) Committee held on 07.01.2016 regarding the resolution under item No.8 & 16 of the Agenda of THE Chief Justices' Conference, 2015, Hon'ble the Chief Justice of the High Court of Orissa has been pleased to observe that all the District & Sessions Judges of the State be instructed to take the follow up action for effective implementation of the directives of the National Court Management Systems Committee (NCMS), Supreme Court of India as follows:-

- (i) to affix a tentative chart of life cycle on each case records (both in Civil & Criminal) from its institution till disposal of the case fixing time schedule for specific steps/stages to avoid unnecessary delay in trial of the said case,
- (ii) to affix a green flag on each case record when it becomes 3 years old and red flag for 5 years old from the date of instruction in order to differentiate case records as per its age profile so that the Courts will be kept on the alert towards responsiveness.
- (iii) In order to ensure the optimum utility of manpower the Officers in a judgeship can be moved to the stations identified having more pendency of cases from the stations where there are less pendency of cases.
- (iv) To prepare plan/programme for disposal of cases for next 3 months without compromising the quality by giving emphasis on 5+ zero cases and to report every month regarding the target achieved in this regard.

- (v) to submit detail particulars regarding maternity leave. Commuted Leave and earned Leave etc. taken by the Judicial Officers of their Judgeships and the period devoted by them, if any , to undergo training in Odisha Judicial Academy, National Judicial Academy or any other institution for assessing the need for additional Judicial Officers for " Leave and Training Vacancies".

I am, therefore, to request you to kindly issue an instruction in the light of above observations of the Hon'ble SCMS Committee to all the Judicial Officers working within your jurisdiction for their information and strict adherence.

Yours Faithfully,

R. Mohapatra

Member-Secretary, SCMS Committee

NO. 1056 (30) /Dated 02.02.2016

From

Shri M.R Tripathy
Registrar (Admn. & Vigilance)

To

The District & Sessions Judge.... (All)

Sub: Preparation of information regarding criminal cases placed to dormant file.

Sir,

I am directed to say that the Court after careful consideration have been pleased to direct you to prepare information in a tabular form giving details of the case numbers, names of the accused persons, the date of issuance of warrants, date of putting the files to dormant and the names of the Police Stations to which warrants have been issued, in the criminal cases pending in your Judgeship and submit the same to this Court at the earliest.

Yours faithfully,
M.R TRIPATHY
REGISTRAR (ADMN.& VIGILANCE)

470

NO. 3585 (30)/ Dtd 27.4.2016

From

Shri S.R. Pradhan,
Special Officer (Special Cell)

To

The District & Sessions Judge,(All)

Sub: Supreme court judgment dated 30.03.2016 passed in W.P.(C) No. 235/2012 (Savelife Foundation & Anr. Vrs Union of India & Anr.) regarding protection of accident victims and good Samaritans.

Sir,

I am directed to forward herewith the copy of Judgment of the Apex Court Dtd. 30.03.2016 passed in W.P.(C) No. 235/2012 (Save Life Foundation & Anr. Vrs Union of India & Anr.)for your information and communication to all the Judicial Officers functioning in your judgship for their information and guidance.

Yours faithfully,
S.R. PRADHAN
SPECIAL OFFICER (SPL. CELL)

471

No. 4927(30)/ Dated 22.06.2016

From

Shri Dyumatsen Nayak,
Registrar (Inspection)

To

The District & Sessions Judge(All)

Sub: Fast tracking of matters relating to Crime against women, children, differently-abled persons, senior citizen and marginalized sections of society.

Sir,

In inviting a reference to the resolution of the Chief Justices' Conference, held on 22nd and 23rd April, 2016. I am directed to say that it is resolved that all the judicial Magistrates working under your control be impressed upon to ensure expeditious disposal of cases pertaining to women, marginalized segments, senior citizens and differently-abled persons and to take steps to prioritize the disposal of cases falling in these categories within the existing court system.

I am, therefore to request you that the Officer working in your Judgeship be strictly instructed to adhere the above instructions accordingly.

Yours faithfully,
DYUMATSEN NAYAK
REGISTRAR (INSPECTION)

No. 4928 (30)/ Dated 22.06.2016

From

Shri Dyumatsen Nayak,
Registrar (Inspection)

To

The District & Sessions Judge.....(All)

Sub: Disposal of the cases of Under Trial Prisoners pending for over three years on top priority basis.

Sir,

I am directed to say that it was resolved under item No. 5(ii) of the Chief Justices' Conference, 2016 held on 22nd and 23rd April, 2016 that top priority shall be given to the cases pending over three years in which UTPs are languishing in jail custody.

I am, therefore to request you to impart necessary instruction to all the Judicial Officers of your Judgeship to dispose of the cases of the UTPs pending in their respective Courts for more than 3 years and to submit monthly reports to this Court.

Yours faithfully,
DYUMATSEN NAYAK
REGISTRAR (INSPECTION)

No.11104 (52) / 14.12.2016

From

Shri Dyumatsen Nayak,
Registrar (Inspection)

To

1. The Sessions Judge,.....(All)
2. The Special Judge (Vigilance), Cuttack/ Balasore/ Bhubaneswar/ Bolangir/
Jeypore (Koraput)/ Keonjhar/ Baripada/ Phulbani/ Bhawanipatna/
Berhampur/ Sambalpur/ Sundargarh
3. The Special Judge (Special Court), Cuttack/ Bhubaneswar
4. The Special Judge (C.B.I), Bhubaneswar
5. The PO Special Court (SC & ST),Balasore/ Bolangir/Cuttack
6. The PO Special Court (OPID),Cuttack/Berhampur/ Sambalpur/ Balasore

Sub: Submission of report regarding maintenance and regular verification of
Register (R)-5 (Criminal)

Sir/Madam,

I am directed to say that the Hon'ble Court while considering the matter regarding non verification of Register (R)-5 (Criminal) maintained in the court of Ad hoc Additional Sessions Judge (FTC-I), Balasore in CRLA No. 305 of 2009 (Baikuntha Nath Jena @ Baikuntha Jena and 4 others Vs State of Orissa) have observed that in many courts in the State, the R-5 is not maintained properly by the dealing assistants concerned and the presiding officers also do not bestow the required care and cautions regarding the entries therein.

Further, the Court have also observed that the Presiding Officer must insist for return of lapsed jail warrants from the jail authorities and obtain the same within fifteen days of the period undergone. Any deviation by the jail authority in returning the Jail warrants and also negligence if any of the Dealing Assistant concerned in obtaining the lapsed warrant and consigning the same to the record room, be reported to their controlling officers competent to proceed against them departmentally. No deviation in this regard be made by the Presiding Officers hereinafter and if any Presiding Officers does not take steps in this regard as directed, the same be reported to the Hon'ble Court in Administrative side by the

District & Sessions Judge or the Inspecting Authority to the Hon'ble Court for dealing with such dereliction in Administrative side.

I am, therefore, to request you to issue instructions to the courts dealing with the Criminal cases in your judgship for proper maintenance and regular verification of Register(R)-5 (Criminal) maintained in their custody, but maintained in volumes, till all the entries in a Register is rounded up either for undergoing the sentence imposed or otherwise. Any deviation in this regard be reported to the Court for taking appropriate action against the officer concerned.

This is for your information and necessary action.

Yours faithfully
DYUMATSEN NAYAK
REGISTRAR (INSPECTION)

No. 204 (30)/ dated 05.01.2017

From

Shri A.K.Sahoo,
Member-Secretary, SCMS Committee.

To,

The District & Sessions Judge,.....(All)

Sub: Compliance of the resolution of the State Court Management Systems
(SCMS) Committee held on 20.12.2016.

Sir,

I am directed to say that in pursuance of the resolution passed in the meeting of the State Court Management System(SCMS) Committee held on Dtd. 20.12.2016, Hon'ble the Chief Justice of the High Court of Orissa, has been pleased to observe to instruct all the District & Sessions Judges of the State as follows.

- (i) to impress upon the Presiding Officers of the Courts of your Judgeship for disposal of more number of 5 years and above old cases to reduce the pendency of cases in each Court to 5+ zero.
- (ii) to hold the DCMS Committee meetings in such a manner that the required report/ statement is received at this end in time, for onward submission of the same to the NCMS Committee, Supreme Court of India, New Delhi by the 7th of the succeeding month, as directed vide D.O. Letter Dtd. 15.06.2015 of the NCMS Committee.
- (iii) further the reason of pendency of 10 numbers of oldest cases both in civil and criminal side of each Court of your judgeship with the steps taken for disposal of those, in short narration may be obtained this time and submitted with your regular reports, for placing those before the Committee.

I am, therefore, to request you to comply the above instructions besides the earlier instructions given by the SCMS Committee and report compliance.

Yours faithfully,

A.K.SAHOO

MEMBER-SECRETARY, SCMS COMMITTEE.

NO 5469(30)/ Dated.30.01.2017

From

Superintendent of the High Court of Orissa; Cuttack

To

The District & Sessions Judge(All)

Sir,

I am directed to forward herewith a copy of Court's order No. 07 dated, 26.10.2016 passed in BLAPL No. 2652/2016 (Kartika Sahu-Vs-State of Orissa) arising out of ST Case No. 138/2014 Corresponding to Rourkela plant site P.S Case No. 11/2014 for your information and necessary action.

You are, further directed to circulate the aforesaid order of Hon'ble Court amongst the Judicial Officers working under your control for their information & guidance.

Yours faithfully,

Sd/-

Superintendent,

Criminal Misc. Section

Enclosure: Copy of Court's order No. 07 dated. 26.10.2016(3 Sheets)

BLAPL No. 2652 of 2016

IN THE HIGH COURT OF ORISSA, CUTTACK

Date of Order 26.10.2016

Pursuant to the direction of this Court dated 18.10.2016, the Superintendent of Police, Rourkela has filed an affidavit in this case.

Learned Advocate General appearing for the State submits that non-compliance of the order of this Court was not a deliberate act of the Superintendent of Police, Rourkela, but for the negligence of the sub-ordinates who did not bring the same to the notice of the Superintendent of Police, Rourkela. The Superintendent of Police, Rourkela, however, in the meanwhile has complied with the order and filed an affidavit indicating the aforesaid and begged unconditional apology for the same and, as such, he submits that no further action be taken against the Superintendent of Police, Rourkela.

Perused the affidavit filed, It appears from the affidavit that the order of this Court was not brought to the notice of the Superintendent of Police, Rourkela and, as such, he could not comply with the same, but in the meanwhile he has complied with the same. He further stated in the affidavit that on enquiry it reveals that the seized gold ornaments and cash of Rs.4, 45,000/- were given in Zima of the complainant in this case and the Investigating Officer, so also the complainant both appeared before the trial court and the complainant stated before the trial court that she has already melted the gold and, as such, she could not produce the same. However, the trial court has directed to cause production of the same.

In view of such affidavit of the Superintendent of Police, Rourkela, this Court is convinced of the fact that there was no deliberate violation of this Court's order, coupled with the same, the Superintendent of Police, Koraput has also tendered apology. In such premises, this Court is of the view that there is no necessity for proceeding further against the Superintendent of Police, Rourkela for non-compliance of this Court's order.

So far as non-compliance of the order of the trial court by the Investigating Officer is concerned, it appears that both the complainant and the Investigation Officer have appeared before the trial court and the trial court allowed them under

conditional bond to cause production of the M.O. within a stipulated period. Since the trial court is in seisin over the matter, this Court does not want to express any opinion on the same.

However, while parting with this case, this Court cannot refrain from observing the fact that on many occasions, it is noticed that the property seized in connection with the case or valuables seized are being disposed of without the appropriate order from the Magistrate or Court concerned by the Police Officers. In this respect, it would be appropriate to refer to Section 102 of the Code of Criminal Procedure (for short "Cr.P.C") is Extracted hereunder:-

"102. Power of police officer to seize certain property:-(1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

(3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court [or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation], he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same:

Provided that where the property seized under sub-Section(1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of sections 457 and 458 shall, as nearly as may be practicable apply to the net proceeds of such sale".

Sections 451 to 458 of the Cr.P.C deals with the disposal of the property by a Magistrate or a Court. The Apex Court also given certain guidelines in the case of

Sundarbhai Ambala Desai Vrs. State of Gujarat, reported in (2003) 24 OCR (SC) 444, with regard to disposal of such property and with regard to the valuable security including the vehicles etc.

In spite of the clear mandate of law, on many occasions it has come to the notice of this Court that the Police officers are disposing of the property including the valuables / properties by exercising power under section 102(3) of Cr.P.C, though there exists no circumstances as mentioned in Section 102(3) of Cr.P.C. and in this process, required evidence are destroyed and the same also gives rise to avoidable litigations with regard to the established disputed claims of such valuables /properties. Needless to say that sub-section (3) of Section 102 empowers the Police Officer to give the Zima of the property in certain contingencies, i.e., when the property seized cannot be conveniently transported to the Court or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation. In the present case, the property seized was released which has caused considerable difficulties in disposal of the case and the case is lingered for this purpose unnecessarily which could have been easily avoided.

As in many cases, it is seen that properties are being disposed of by the Police officers on their own and the statutory mandate under Section 102 of Cr.P.C. with regard to disposal of the property are observed more in breach by the police officers, this Court is of the view that the Police officials must adhere to the mandate of Section 102 of Cr.P.C. with regard to the seizure and disposal of the property seized by them.

Hence, it is directed that when a police officer makes seizure of the properties, that is alleged or suspected to be a stolen property or when the property which he has seized finding the same under the circumstances creating a suspicion of the commission of any offence, forthwith report the same to the Magistrate within whose jurisdiction the aforesaid seizure is made and on receipt of the same, the Magistrate concerned shall initiate a Misc. Case with regard to the aforesaid property and dispose of the same in accordance with the mandate of Sections 457 and 458 of Cr.P.C. with the exception that if the value of the property

is less than rupees 500 and the property is subject to speedy and natural decay and the person from whom the property is seized is unknown or absent, auction of such property with the order of the Superintendent of Police by observing the procedure as prescribed under Sections 457 and 458 of Cr.P.C. may be made by the Police Officer. Any failure to report, the same must not be viewed happily by the Magistrate concerned and also the Controlling Officers or the Disciplinary Authority of the Police Officer making such seizure.

However, if there exists circumstances as provided in sub-section (3) of Section 102 of Cr.P.C., the Police Officer after making such report of seizure, may release the same in Zima of proper person, but the same must be by securing the proper security for production of the same as and when desired by the Court, but in no circumstances which is the subject matter of offence and are going to furnish the proof, the same be released without the order of the Magistrate/ Court concerned and the Magistrate / Court concerned while allowing such zima or the custody of such property must take such effective measures in order to secure the production of the property if required during trial/ inquiry keeping also the proof of seizure of such property to be utilized as evidence during trial /inquiry, keeping in view the law laid down in the case of *Sundarbhai Ambala Desai (supra)*.

A copy of this order be communicated to the Sessions Judges of the State for circulation among the Judicial Officers within their respective jurisdiction. A copy of this order be also communicated to the Director General of Police who on receipt of the same shall impart necessary instruction to the Police Stations throughout the State.

With the aforesaid order, this BLAPL stands disposed of.

S.PUJAHARI, J.

No. 1547(30) / dated 17.02.2017

From

Shri A.K. Sahoo, OSJS
Member-Secretary, SCMS Committee

To,

The district & Sessions Judge,.....(All)

Sub: Observation of the Chairperson, National Human Rights Commission, New Delhi.

Sir,

I am directed to say that in order to decongest the jails, Hon'ble Mrs. Justice H.L. Dattu, Chairperson, National Human Rights Commission, New Delhi has suggested as follow.

- i. Bail for bail able offences should be given by the courts.
- ii. The First offences u/s-4 of the P.O. Act is to be placed under the control of the Probationary Officer rather than continue in the jail. Of course, the magistrate or the judge will have to take a decision based on the facts of the case.

His Lordship has also observed that all the sub-ordinate Courts to consider bails for the bail-able offences and not to insist on higher amount of surety bond from indigent prisoners.

I am, therefore, directed to request you to communicate the above observation of Hon'ble the Chairperson. NHRC to all the Courts working under your control for their information and to follow the connected circulars issued in this regard.

Yours Faithfully,

A.K. SAHOO

MEMBER-SECRETARY, SCMS COMMITTEE.

No. 2680(30) Dated. 08.03.2017

From

Dr. A.K.Mishra
Registrar General

To

The District & Sessions Judge(All)

Sub: D.O letter Dtd. 03.02.2017 received from Hon'ble Mr. Ravi Shankar Prasad, Minister, Law & Justice and Electronics & IT, Govt. of India, New Delhi regarding review of all cases relating to UTPs pending in your judgship.

Sir,

In enclosing herewith a copy of D.O letter No. J-15018/2/2010-JR dtd. 03.02.2017 received from Hon'ble Mr. Ravi Shankar Prasad, Minister, Law & Justice and Electronics & IT, Govt. of India, New Delhi on the above subject, I am directed to request you to take suo moto action for release of UTPs who have already served half of their likely maximum sentence u/s 436-A Cr.P.C.

This is for your information and communication to all the criminal courts working under your control for their information and necessary action.

Yours faithfully,
A.K.MISHRA
REGISTRAR GENERAL

Encl:-D.O letter Dtd. 03.02.2017

RAVI SHANKAR PRASAD
MINISTER OF LAW & JUSTICE and ELECTRONICS & IT, GOVERNMENT OF INDIA
D.O.NO.J-15018/2/2010-JR (Vol-IV)
Dtd.03.02.2017

Dear Chief Justice,

I write to you to share my concern regarding the increased number of under trials in jails across our country. As you are aware, the Government of India and the Hon'ble Supreme Court have been very committed to the cause that every accused person receives a fair trial and does not languish in jail longer that is absolutely necessary, as per law. The United Nationals Sustainable Development-Goal 16 also underscores the obligation of States "to ensure equal access to justice for all".

The Hon'ble Supreme Court has echoed this legal principle many times, including in its recent landmark order in Bhim Singh vs. Union of India, passing directions for release of under trial prisoners who have served half of their likely maximum sentence as per Section 436A of the Code of Criminal Procedure (CrPC). Here, the Hon'ble Court has also mandated regular functioning of the Under Trial Review Committees (UTRC) in every district to monitor the timely identification and release of under-trials under Section 436A CrPC.

All the stakeholders, the Government of India, the Judiciary including the Legal Service Authorities need to take collective responsibility for ensuring that institutional mechanisms such as the UTRC and legal aid systems work seamlessly to ensure access to justice for the under trial population-ensuring that get effective legal representation and timely justice.

The e-Prisons software developed by the NIC is an excellent management tool for the judiciary and the prison authorities to access the database of prisoners including the under trials in their respective prisons and identify and initiate the process for release of under trials on time.

I shall be grateful if you could kindly advise the district judiciary to review all such cases under Section 436A CrPC, and take suo moto action for their release. I shall also be grateful if the High Court ensures that the UTRC mechanism, for periodic monitoring of under trial releases, continues to effectively deliver its mandate, so that the basic human rights of under trials are not undermined.

The Indian Judiciary has played a pivotal role in articulating and assuring the rights of prisoners and I look forward to your continued support in this national endeavor to enforce the existing provisions of law in this regard. I would also be keen to receive any suggestions that you may have to improve the present system of justice delivery in your State.

With regards,

Yours sincerely,
(Ravi Shankar Prasad)

Shri Justice Vineet Sara,
Chief Justice,
Orissa High Court,
Cuttack-753002.

No. 3031(30)Dated. 16.03.2017

From:

Shri Dyumatsen Nayak
Registrar (Inspection)

To

The District & Sessions Judges,(All)

Sub: Non-intimation of fact of stay realization of fine amount to the jail authority

Sir/Madam,

I am directed to say that it has come to the notice of the Hon'ble Court that, the convicts are detained after undergoing their substantive terms of imprisonment, to undergo default sentence for non-payment of fine, although the appeal preferred by them is pending and realization of fine has been stayed. The Court after careful consideration pleased to instruct the criminal courts functioning under your jurisdiction to intimate the fact of stay realization of fine amount to the jail authority immediately for their information and necessary action.

The aforesaid instruction may be brought to the notice of the Sub-ordinate Courts, under your control for their guidance.

Yours faithfully,
DYUMATSEN NAYAK
REGISTRAR (INSPECTION)

No. 3176 (30)/ Dated 31.03.2017

From,

Dr. A.K.Mishra
Registrar General

To,

The District & Sessions Judge,.....(All)

Sub: Order Dtd. 09.03.2017 passed by Hon'ble the Supreme Court of India in CrI. Appeal No.-509/2017 arising out of SLP (CrI.) No. 4437/2016 (Hussain and another Vr.s Union of India) with Criminal Appeal No. 511/2017 (Aasu Vrs. State of Rajasthan)

Sir,

I am directed to forward herewith a copy of the Order Dtd. 09.03.2017 passed by Hon'ble the Supreme Court of India in Criminal Appeal No. 509/2017 arising out of SLP (CrI) No. 4437/2016 (Hussain and another Vrs. Union of India) with Criminal Appeal No. 511/2017 (Aasu Vrs. State of Rajasthan) for your information and guidance.

Yours faithfully,
A.K.MISHRA
REGISTRAR (INSPECTION)

487

No. 7033(30)/ Dated 18.07.2017

From

Shri D.R Kanungo, OSJS
Member-Secretary, SCMS Committee.

To,

The District & Sessions Judge,.....(All)

Sub: Action Plan for sub-ordinate Courts for reducing pendency of 5 year old cases to zero with reference to kind minutes Dtd. 22.04.2017 of the Arrears Committee for Supreme Court and High Court.

Sir,

I am to say that Hon'ble the SCMS Committee in a meeting held on 17.07.2017 has been pleased to prepare the Action Plan for sub-ordinate Courts for reducing pendency of 5/10 year old cases to zero.

I am, therefore, directed to enclose a copy of the aforesaid Action Plan for your information and guidance & for communication of the same to all the Judicial Officers of your Judgeship for their information and further guidance.

Encl: As above

Yours faithfully,

D.R KANUNGO

MEMBER-SECRETARY, SCMS COMMITTEE

ACTION PLAN FOR SUB-ORDINATE COURTS FOR REDUCING PENDENCY OF 5/10 YEAR OLD CASES TO ZERO

- h) Sessions Judge/Addl. Sessions Judge- 3 nos. of over 10years old cases per month giving priority to the U.T.P.s and 5 Civil appeals of more than 10 years old cases (to be assessed quarterly total 24 nos. of year old cases)
- i) M.A.C.T.-8 nos. of Over 10 years / 5 years old cases per month (to be assessed quarterly total in 24 Nos. of more than 5 years old cases.)
- j) Special Court such as Vigilance, C.B.I. etc-At least 1 more than 10 years old cases per month (to be assessed quarterly total 5 cases of over five years old cases.)
- k) Senior Civil Judge- 2 Nos. of over 10 years old cases and 3 nos. of 5 years old cases per month (to be assessed quarterly total 15 nos. of year old cases)
- l) Assistant Sessions Judge/Chief Judicial Magistrates- 5 nos. of over 10years old Sessions cases per month (to be assessed quarterly total 15 nos. of year old cases.)
- m) For Judicial Magistrate exclusively dealing with Criminal cases-10 cases of over 10years old cases per month (to be assessed quarterly total 30 cases) giving priority to the U.T.Ps.
- n) Judicial Magistrate-cum-Civil judge (dealing with both Civil & Criminal cases)-2 nos. of Over 10years old civil cases per month and 8 nos. of over 10years old criminal cases (to be assessed quarterly total 6 nos. Civil cases & 24 nos. Criminal cases) giving priority to the U.T.Ps.

Beside above, all the Officers should make an endeavour for disposal of more than 10 years old cases on priority basis and in the event of non-availability of all such 10years old cases, efforts shall be made for disposal of cases which are more than 5 years old.

Guideline to give effect Action Plan:

- While giving priority to these Action plan, the Officer should keep the oldest cases as well as the U.T.P. position of his Court in view.
- Adherence to the Action plan would in no way prejudice, the yardstick otherwise prescribed by the Court for the Officer.
- The District Judge/D.C.M.S Committee shall track down the pendency of five years old cases of each Court with case numbers and give instruction to the Officer to prioritize the disposal on the basis of Action plan.
- Fortnightly in the DCMS Committee meeting, the progress of disposal is to be ascertained and monitored.
- The Progress of Action plan shall be communicated to SCMS by 15th of every succeeding month.
- Any difficulty like interim order/ Stay order etc. for giving effect to Action Plan should be brought to the notice of SCMS Committee by the District Judge without delay.
- With regard to cases involving U.T.P.s, the District Court Management System Committee/District & Sessions judge shall ensure compliance of the guidelines issued by Hon'ble Apex Court vide judgment dated 09.03.2017 passed in CrI. Appeal No. 509/2017 arising out of S.L.P (CrI.) No. 4437/2016 (Hussain and Anr. Vrs. Union of India) with CrI. Appeal No. 511/2017 arising out S.L.P(CrI.) 348/2017 (Aasu Vrs. State of Rajasthan) and any deviation in this regard shall be brought to the notice of the SCMS Committee with explanation.

No. 8744(30) Dated 05.09.2017

From,

Sri Dyumatsen Nayak
Registrar (Inspection)

To

The District & Sessions Judge,.....(All)

Sub: Follow-up action on the resolutions passed in the Arrears Committee for Supreme Court and High Court with all the Chief justices of the High Court held on 22.07.2017 in the Supreme Court of India.

Sir/Madam,

With reference to the above captioned subject, I am to say that in pursuance of the resolution passed in the Arrears Committee for Supreme Court and High Courts with all the Chief Justices of the High Court's held on 22.07.2017 in the Supreme Court of India it has been resolved that" Cases of Under trial prisoners of more than six months duration in magisterial trials and more than two years duration in session trials, pending appeals where convicts have completed custody of five years and all the ten years old cases be given top priority and, as far as possible, concluded in next three months or so"

Hence, I am to request you to scrupulously follow the instructions as mentioned above and also impress all the judicial officers working under your control to strictly adhere the instructions contained in the resolution as above.

Yours faithfully,
DYUMATSEN NAYAK
REGISTRAR (INSPECTION)

490

No. 13234(30) Dtd. 22.12.2017

From

Dr. A.K.Mishra
Registrar General

To

The District & Sessions Judge(All)

Sub: Supreme Court judgment dtd. 28.11.2017 passed in Crl. Appeal No. 2045-46/2017 (Doongar Singh & Ors Vrs State of Rajasthan) with Crl. Appeal No. 2047/2017 (Narain Chandelia & Ors Vrs State of Rajasthan) for dealing with the cases u/s -309 of the Cr.P.C.

Sir,

I am directed to forward herewith a copy of Supreme Court judgment dtd.28.11.2017 passed in Crl. Appeal No. 2045-46/2017 (Doongar Singh & Ors Vrs State of Rajasthan) with Crl. Appeal No. 2047/2017 (Narain Chandelia & Ors Vrs State of Rajasthan) for dealing with the cases u/s-309 of the Cr.P.C for your information and communication to all the Criminal Courts working in your jurisdiction for their information and guidance.

Yours faithfully
A.K.MISHRA
REGISTRAR GENERAL

491

No. 66/ Dated 02.02.2018(30)

From

Shri D.R. Kanungo, OSJS
Member Secretary, S.C.M.S.

To

The District Judge(All)

Sub: Submission of Monthly Statistical Data online relating to disposal of 10 year/
5 year and UTP cases.

Madam/Sir,

I am directed to intimate that the Technical Team of the Hon'ble Court has prepared a software for collection of monthly data on disposal of ten year & five year old cases (Civil& Criminal) and UTP cases as per the Action Plan.

As such I am directed to request you to instruct the Technical Personnel deployed under you to access the URL:<http://10.184.240.52/escms> through VPN, to go through the user manual (softcopy attached and after accessing to change the user name & password.

Further, please instruct the Court Manager & the concerned Staff of the Statistics Department to provide the required online monthly data in the software regularly to the Hon'ble Court on or before the 5th day of each succeeding month.

This is for your information and necessary action.

Yours faithfully,
D.R. KANUNGO
MEMBER SECRETARY,S.C.M.S.

492

No.2448 (30) /Dated.12.03.2018

From

Shri A. K. Sahoo,
Registrar (Judicial)

To

The District & Sessions Judge,.....(All)

Sub: Notification No. 674 Dtd.27.01.2018 regarding protection of Good Samaritans.

Sir,

I am directed to forward herewith a copy of the Notification No.674 Dtd.27.01.2018 issued by the Govt. of Odisha in Commerce and Transport (Transport) Department for your information and guidance.

Yours faithfully,

A. K. SAHOO

REGISTRAR (JUDICIAL)

Encl:-As above

Government of Odisha

Commerce and Transport (Transport) Department

NOTIFICATION

No. 674/T., Bhubaneswar, dated the 27.01.18

Whereas the Hon'ble Supreme Court in the case of Savelife Foundation and another vs. Union of India and another in writ petition (Civil) No. 235 of 2012 *vide* its order dated 29th October, 2014 inter alia, directed the Central Government to issue necessary directions with regard to the protection of Good Samaritans until appropriate legislation is made by the Union Legislature;

And whereas, in pursuance of the said directions, the Ministry of Road Transport & Highways (ROAD SAFETY), Government of India *vide* its Notification dated 12th May, 2015 have issued guidelines to be followed by hospitals, police and all other authorities for the protection of Good Samaritans and *vide* its notification dated 21th January, 2016 the Standard Operating procedures (SOPs) for the examination of Good Samaritan by the police or during trial;

And whereas, the Hon'ble Supreme Court *Vide* its order dated 30th March, 2016 after effecting certain modifications to the guidelines and the Standard Operating Procedures (SOPs) so issued by the Central Government *vide* the said Notifications, approved the same and ordered that the guidelines and SOPs with such modifications be complied with by the Union Territories and all the functionaries of the State Governments as per law laid down by the Court under Article 32 read with Article 142 of the Constitution of India and the same be treated as binding as per mandate of Article 141;

And whereas, in pursuance of the directions of the Hon'ble Supreme Court the State Government hereby issues the following guidelines to be followed by hospitals, police and all other authorities in Odisha for the protection of Good Samaritans and the Standard Operating procedure for the examination of Good Samaritans by the police or during trial, namely:-

1) A Good Samaritan or a by-stander, or any person who makes a phone call to the police Control Room or Police Station to give information about any accident

injury or death, except an eyewitness may not reveal personal details such as full name, address, phone number etc. on the phone or in person.

2) A Good Samaritans, after having informed the Police about an injured person on the road, shall be allowed to leave by the concerned Police official(s), and no further questions shall be asked if the Good Samaritans does not desire to be witness in the matter.

3) A Good Samaritans or by-stander including an eyewitness of a road accident may take an injured person to the nearest hospital for treatment and the Good Samaritan or the by-stander should be allowed to leave if he/she desires so and no question shall be asked to him/her by hospital staff except the request made by the authority concerned to the good Samaritan or to the by-stander to leave his/her present and permanent address with the contact number/email, if any, for the purpose of reward or trial, He/ She may shall be shown due courtesy and shall be treated respectfully without any discrimination on the grounds of gender, religion, nationality, caste or any other grounds. The Good Samaritan shall be allowed leave Hospital without unnecessary delay.

4) In order to identify the good Samaritan, the following may be adopted:-

The Good Samaritan(s) after taking the road accident victim(s) to the hospital may, if he or she so desires may leave his/her address with contact number/email address in a standard format prescribed by Health & Family Welfare Department. Government of Odisha. In absence of the said format or till the time such format is prescribed and disseminated to all hospitals, there should be no vacuum and in the interregnum period, if so desired by Good Samaritan, the acknowledgement shall be issued on official letter pad etc. of the doctor not below the rank of Assistant surgeon, mentioning name of the Samaritan, address, time, place of occurrence and confirming that the injured person was brought by the said Samaritan. It shall be the duty of the said authorities to make a humble request to the Samaritan to leave his/her address.

5) The disclosure of personal information, such as name and contact details of the Good Samaritan or the by-stander shall be made voluntary as well as optional in the Medico Legal Case (MLC) Form provided by the hospitals.

6) The disciplinary or departmental action shall be initiated by the Government against the concerned public officials who force or intimate a Good Samaritan or a by-stander for revealing his/her name or personal details.

7) All registered public and private hospitals shall not detain the Good Samaritan or the by-stander, demand payment for registration and admission costs unless the Good Samaritan or the by-stander is a family member or relative of the injured.

8) The injured brought to the hospitals is to be treated immediately in pursuance of the order of the Hon'ble Supreme Court in Pt. Parmanand Katara Vs. Union of India & Others (1989) 4 SCC286.

9) Lack of response by a doctor in an emergency situation pertaining to road accidents, where he is expected to provide care, shall constitute "Professional Misconduct" under Chapter 7 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 and disciplinary action shall be taken against such doctor under Chapter 8 of the said Regulations.

10) All hospitals shall publish a charter in Odia, Hindi and English at their entrance to the effect they shall not detain the Good Samaritan or the by-stander or ask depositing money for them for the treatment of a victim.

11) All public and private hospitals shall implement these guidelines immediately and in case of non-compliance or violation of these guidelines, appropriate action shall be taken against them by the concerned authority.

12) The guidelines will be included as one of the topics for discussion in every induction training programme meant for doctors.

13) The implementation of the guidelines will be monitored by Head of the hospital and a report thereof to be furnished quarterly to Health & Family Welfare Department, Govt. of Odisha.

14) The Good Samaritan or the by-stander shall not be liable for any civil or criminal liability.

15) The Good Samaritan or the by-stander shall not be compelled to lodge FIR at police Station nor shall the eye witness be asked to do so either by police agency or by medical authority.

16) The local police having jurisdiction to the accident shall register FIR either on the voluntary report of the Good Samaritan or the by-stander or on the basis of the report received from the hospital authority. The Good Samaritan or the by-stander shall not be cited in the charge sheet, if he is not willing.

17) If the Good Samaritan or the by-stander is willing to be the witness to the occurrence of the accident, the following guidelines are to be strictly observed by the Police for examination of the Good Samaritan:-

a) The Investigating Officer shall, as far as possible, conduct the examination of the Samaritan at a time and place of convenience such as his/her place of residence or business and the Investigating Officer shall be dressed in plain clothes, unless the Good Samaritan chooses to visit the Police Station.

b) In case the Good Samaritan speaks a language other than the language of the Investigating officer or the local language of the respective jurisdiction, the Investigating Officer shall arrange for an Interpreter.

c) where a Good Samaritan declares himself to be an eyewitness, he shall be allowed to give his evidence on affidavit, in accordance with section 295 of the Code of Criminal Procedure, 1973 (2 of 1974) which refers to *Evidence in formal Character on Affidavit*.

d) The Police officer while conducting the investigation shall treat the affidavit of the Good Samaritan if filed, as complete statement. In case statement is to be recorded, complete statement shall be recorded in a single examination on a fixed date and time convenient to the Good Samaritan.

e) At the time of examination of the Good Samaritan or by-stander, utmost care needs to be taken by the investigating officer to maintain decency, decorum and dignity. No intimation or annoyance in any manner shall be caused to the Good Samaritan or by-stander or eye witness while examining them for collecting material evidence.

f) In view of the provision laid down under section 160 Cr.P.C., the Good Samaritan or by-stander, if a male person under the age of 15 years or above 65 years or if a woman or physically disabled, shall be examined only at his/her residence. The said examination should be concluded in a single sitting.

18) In the event of avoidance/ unwillingness by the Good Samaritan/by-stander/ eyewitness as witness to attend the Court of law physically, the concerned Court shall not normally insist on appearance as that causes delay, expenses and inconvenience. The Court shall exercise the power to appoint the Commission for examination of Good Samaritans in accordance with the provisions contained in section 284 of the Code of Criminal Procedure, 1973 *suo motu* or on an application moved for that purpose, unless for the reasons to be recorded personal presence of Good Samaritans in Court is considered necessary.

On receipt of written request, seeking lawful protection by/from the Good Samaritan or the by-stander, the officer-in-charge of local police station concerned shall extend all possible assistance for the required purpose.

On the approach of the Good Samaritan or the by-stander, the concerned public Prosecutor shall take steps to record the evidence in time, If found to be hearsay, his/her evidence may be dispensed with.

Reasonable and necessary protection need be given by the office-in-charge for the safe court attendance of the by-stander or Good Samaritan in Court of law.

19) The Superintendent of Police or Deputy Commissioner of Police or any other Police Official of corresponding seniority heading the police force of a District, as the case may be, shall be responsible to ensure that all the above mentioned procedures for examination of the Good Samaritan are implemented through his/her respective jurisdiction with immediate effect.

20) The Good Samaritan or the bystander shall be suitably rewarded or compensated to encourage other citizens to come forward and help the road accident victims by admitting them in hospitals. Proper publicity shall be given in print and electronic media about the Good Samaritan or the bystander to recognize their good work and motivate others to help the road accident victims. The following financial assistance are recommended for rewarding the Good Samaritan:-

a) Rs 2000/- cash award to a person or persons shall be given as incentive in each case.

b) Transporting to the hospital and cost thereof will be reimbursed, if the victim is shifted to the hospital in a hired vehicle. Bill for the same may not be insisted.

c) Good Samaritans will be felicitated at the functions organized by the States as well as by the Districts. The reward will be paid out of the Odisha Road safety Society Fund.

21) The following procedure shall be adopted to for rewarding the Good Samaritan/bystander:-

The hospital authority not below the rank of Assistant Surgeon, on receipt of the address from the Good Samaritan will reproduce it in the prescribed acknowledgement format prepared by Health and Family Welfare Department, Government of Odisha and will intimate the same to the nearest RTO in person or through authorized representative or through post for award of cash prize. The RTO shall then reward Samaritan with a cash prize of Rs.2000/- with a letter of appreciation the audio-visual of which shall be uploaded in the websites of the concerned departments for public view.

The above guidelines in relation to protection of a Good Samaritan will be binding upon all the registered public and private hospitals, police and all other authorities in Odisha and are without prejudice to the liability of the driver of the motor vehicle involved in a road accident under section 134 of the Motor Vehicles Act, 1988

The Standard Operating Procedure (SOP) issued by Home Department for protection of Good Samaritan Vide Order No. HRPC (A)-65/2015-38943 dated 21.11.2015 and the guidelines for protection of Good Samaritan issued by Health & Family Welfare Department vide Notification No. Sch-Med-512/2015-2721/H dated 05.02.2016 are superseded herewith.

By order of the Governor
Sd/-
Principal Secretary to Government

No.6309 (30)/ Dated.27. 06.2018

From

Shri A.K.Sahoo, OSJS
Registrar (Judicial)

To

The District & Sessions Judge,.....(All)

Sub: Compliance of direction of Hon'ble the Supreme Court of India
Dtd.25.04.2018 passed in Criminal Appeal Nos. 1375-1376 of 2013 (Asian
Resurfacing of Road Agency P. Ltd. and Anr. vs. Central Bureau of
Investigation).

Sir,

In continuation to the Court's letter No. 5967 (30) Dtd. 22.06.2018, I am directed to say that the Hon'ble Supreme Court of India on 25th April, 2018 in the case of Asian resurfacing of Road Agency P. Ltd. and Anr. Vs. Central Bureau of Investigation [criminal appeal Nos. 1375-1376 of 2013] has been pleased to, inter alia, direct that, wherever original record has been summoned by an appellate/ revisional Court, the photocopy/scanned copy thereof may be sent and original may be retained by the Trial court so that the proceedings are not held up, unless the original is specifically requisitioned by the Court. In cases where original record has already been summoned for perusal, photocopy/scanned copy thereof may be kept and the original be returned to the Trial Court.

I am, therefore, to request you to intimate the above observation of the Hon'ble Apex Court to all the Courts subordinate to you for their information and submit the photocopy/scanned copy of the record instead of original one unless the said original record is specifically requisitioned by this Court.

This is for your information and immediate strict guidance.

Yours faithfully

A.K.SAHOO

REGISTRAR (JUDICIAL)

500

No.9094 (30)/ Dated.31.08.2018

From

Dr. A.K.Mishra
Registrar General

To

The District & Sessions Judge,.....(All)

Sub: Uploading the information regarding constitution of Internal Complaints Committee of your judgeship in your own website.

Sir,

I am to say that in view of order Dtd. 27.08.2008 passed by Hon'ble Supreme Court of India in W.P.(Crl.) No. 113/2018 (Afshan Pracha Vrs Union of India & Ors.), Hon'ble the Chief Justice has been pleased to direct that all the District & Sessions Judges of the State be requested to upload the information regarding constitution of Internal Complaints Committee for their judgeships in their own website.

I am, therefore, to request you to kindly upload the information regarding constitution of Internal Complaints Committee of your judgeship on your own website.

Yours faithfully,

A.K.MISHRA

REGISTRAR GENERAL

No.9888(30) / Dated.18.09.2018

From

Shri P. K. Patra
Registrar (Inspection)

To

The District & Sessions Judge,.....(All)

Sub: Inclusion of the matter regarding pendency of NBW issued in Sessions Cases awaiting commitment as a separate agenda in the monthly meeting of Senior Officers.

Sir,

I am directed to say that in Court's letter No. 8487 dt. 13.09.1993 instruction was issued for holding of monthly meeting of Senior Officers in order to find ways and means to solve the problems connected with disposal of cases.

In view of the order Dt. 25.07.2017 passed in BLAPL No. 7997 of 2014, the Court on careful consideration, are pleased to include the matter regarding pendency of N.B.Ws. issued in Sessions Cases awaiting the commitment, as a separate agenda in the monthly meeting of Senior Officers and to submit a report to this Court every month as per the prescribed format.

I am therefore, directed to request you to include the aforesaid matter as a separate agenda in the Senior Officers Meeting every month and submit a report as per the following format, for being placed before the Court.

Yours faithfully,
P. K. PATRA
REGISTRAR (INSPECTION)

Information regarding pendency of NBWs issued in Sessions Cases awaiting the commitment and its execution in the preceding month.

Name of the District	Date of sitting of the Sr. Officer's meeting	Total No. of NBWs pending in the Sessions case awaiting commitment at the beginning of the preceding month	No of such NBWs issued during the preceding month	No of such NBWs executed during the preceding month	No. of pending for execution at the end of the preceding month	Remarks
1	2	3	4	5	6	7

No.11644 /Dated 09.11.2018

From

Shri C.R. Dash
Registrar (Judicial)

To

The District & Sessions Judge,.....(All)

Sub: Authorisation to the trying Magistrates for holding of Courts inside the jail premises to dispose of the cases where the maximum period of imprisonment is 3 years.

Sir,

I am directed to say that the Court while considering the report of Dr. L. Mishra, Special Rapporteur, National Human Rights Commission received from the Addl. Secretary to Govt. of Odisha, Home Deptt., Bhubaneswar have been pleased to direct that all the trying Magistrates be authorized to hold Courts inside the jail premises and dispose of the cases where the maximum period of imprisonment is 3 years.

I am therefore to request you to impart necessary instruction to all the Judicial Officers working under your jurisdiction to hold Courts inside the jail premises and dispose of the cases where the maximum period of imprisonment is 3 years.

Yours faithfully,

C.R. DASH
REGISTRAR (JUDICIAL)

No.11645 Dated 09.11.2018

From

Shri C.R. Dash
Registrar (Judicial)

To

The District & Sessions Judge,.....(All)

Sub: Submission of relevant documents at the time of filing counters / petitions by the Govt. officials.

Sir,

I am directed to say that it has come to the notice of the Hon'ble Court by the Advocate General Odisha, Cuttack that in many cases Para-wise comments or draft replies are coming without supporting documents which are revealed either at the time of hearing or after pronouncement of judgments and requested to issue a circular to all the Sub-ordinate Courts in accordance with the principle laid down by Hon'ble the Supreme Court of India vide Judgment dtd. 13.09.1988 passed in Civil Appeal No.1193 of 1984 and 572/573 of 1985(Bharat Singh & Ors Vrs State of Haryana & Ors) reported in AIR 1988 SC 2181

Hon'ble the Supreme Court of India in the aforesaid judgment have been pleased to observe in para-13 that when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter affidavit, if the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter affidavit, as the case may be, the Court will not entertain the point.

The Court while considering the aforesaid facts have been pleased to concur with the suggestion of the learned Advocate General Odisha.

I am therefore to request you to kindly bring the above observation of Hon'ble the Supreme Court of India to the notice of all the Judicial Officers working under your jurisdiction for their information and guidance.

Yours faithfully,
C.R. Dash
REGISTRAR (JUDICIAL)

No.11646 Dated 09.11.2018

From

Shri C.R. Dash
Registrar (Judicial)

To

The District & Sessions Judge,.....(All)

Sub: Commitment of every case involving offences exclusively triable by the Court of Sessions within a stipulated period, not beyond six months from the date of submission of final form.

Sir,

I am directed to say that the Court while considering the proposal for commitment of every case involving offences exclusively triable by the court of Sessions discussed under item No. 20 of the agenda of the District Judge Conference, 2008 have been pleased to observe that all the committal case of the State should ensure commitment of cases involving offences exclusively triable by the Court of Sessions to the concerned sessions Courts as early as possible and not beyond six months from the date of submission of final form.

I am therefore to request you to kindly brought the aforesaid matter to the notice of the all Judicial Officers working under your jurisdiction for their information and guidance.

Yours faithfully,

C.R. Dash
REGISTRAR (JUDICIAL)

No. 12427(30) / Dated.05.12.2018

From

Shri C.R. Dash
Registrar (Administration)

To

The District & Sessions Judge,.....(All)

Sub: Authorization to the trying Magistrates for holding of Courts inside the jail premises to dispose of the cases where the maximum period of imprisonment is 3 years.

Ref: Court's letter No. 10988(30) dtd. 27.10.2018
Court's letter No.11644 (30) dtd.09.11.2018

Sir,

In continuation to the letters and subject cited above, I am directed to say that the Court have been pleased to observe that the Magistrates of the Judgeship of Balasore, Boudh, Cuttack, Deogarh, Dhenkanal, Ganjam, keonjhar, khurda at Bhubaneswar, Malkangiri, Rayagada, Sambalpur and Rourkela in the District of Sundargarh shall conduct proceedings through video conference and in Stations where there is no video conferencing facility is available, the trying Magistrates shall fix a date of holding Courts in the jail premises and thereafter proceed to their nearest jails to hold Courts there for disposal of the petty offences as per instructions contained in the aforesaid letters. Further, the Magistrates concerned may intimate the scheduled date to the jail authorities sufficiently ahead so that the jail authorities can provide adequate facilities to hold Courts in their jails.

I am, therefore to request you to kindly intimate the aforesaid instruction of the Hon'ble Court to all the Magistrates of your judgeship for their information and necessary action.

Yours faithfully
C.R. DASH
REGISTRAR (ADMN.)I/C

No.489 / (30)Dated 10.01.2019

From

Shri C.R. Dash
Registrar (Judicial)

To

The District & Sessions Judge,.....(All)

Sub: Order dtd. 28.03.2018 passed by Hon'ble the Supreme Court of India in Crl. Appeal No. 1375-1376 of 2013 (Asian Resurfacing of Road Agency Pvt. Ltd. & Another Vrs Central Bureau of Investigation).

Sir,

I am directed to say that Hon'ble the Supreme Court of India vide Order dtd. 28.03.2018 passed in Crl. Appeal No. 1375-1376 of 2013 (Asian Resurfacing of Road Agency Pvt. Ltd. & Another Vrs Central Bureau of Investigation) have been pleased to observe that in all pending matters before the High Courts or other Courts relating to P.C. Act or all other civil or criminal cases. Where stay of proceedings in a pending trial is operating, stay will automatically Lapse after six months from today unless extended by a speaking order on above parameters. Same course may also be adopted by civil and criminal appellate/revisional Courts under the jurisdiction of the High Courts. The trial Courts may, on expiry of above period, resume the proceedings without waiting for any other intimation unless express order extending stay is produced.

I am therefore to request you to follow the above instructions contained in the aforesaid judgment by downloading the same from the Official website of Hon'ble the Supreme Court of India.

This is for your information and guidance.

Yours faithfully
C.R. DASH
REGISTRAR (JUDICIAL)

508

No. 2501 (30)/Dated 20.02.2019

From

Shri R.K. Pattnaik,
Registrar General

To

The District & Sessions Judge,.....(All)

Sub: Hon'ble Supreme Court Judgment dtd. 24.03.2015 passed in W.P. (CrI.) No. 167 of 2012 (Shreya Singhal Vrs. Union of India).

Sir,

I am directed to forward herewith a copy of Judgment Dtd. 24.03.2015 passed by Hon'ble the Supreme Court of India in W.P.(CrI.) No 167 of 2012(Shreya Singhal Vrs. Union of India) for your information and communication to all the Courts working under your jurisdiction for their information and guidance.

Further, you are requested to communicate a copy of the above judgment of Hon'ble the Supreme Court of India to the Superintendent of Police of your District for his information and communication to all the Police Officers working under his control for their information and guidance.

Yours faithfully,

R.K. PATTNAIK

REGISTRAR GENERAL

No. 11991(30)/ dated 30.09.2019

From,

Shri T.K.Mohanty
Member- Secretary, SCMS

To,

The District Judge.....(All)

Sub: Timely submission of complete, accurate and uniform statistical figures to different Branch/ Sections of the Hon'ble Court by the District & Sub-ordinate Courts of the State.

Madam/Sir,

I am directed to state that it has come to the notice of the Court that complete and accurate statistical figures are not being submitted to the Court in time by the District & Sub-Ordinate Courts of the State. Further, uniform statistical figures are also not submitted. In other words, different statistical figure relating to same data are submitted to different Branches/Sections of the Court.

In absence of correct, complete and uniform data, effective monitoring of earliest disposal of year old cases is affected and such data adversely affects the policy decisions.

In the above premises, Hon'ble Court have been pleased to resolve that all the District Judges and the Judicial officers under their control are to be impressed upon to:

- I. Visit the Case information System (CIS) Software, NJDG Portal & respective District Court Website on each working day and make optimum usage of JustIS App.
- II. Ensure accurate data entry of Court proceedings in CIS on day to day basis.

- III. Ensure that the physical pendency of case records in the Courts matches accurately with the pendency reflected in NJDG through CIS.
- IV. Ensure that the same statistical figures submitted to the different Branches/Sections of the Court are accurate, complete and uniform.
- V. Ensure that the accurate, complete and uniform monthly statistical figures relating to 5/10/25 year old cases are submitted to all the Branches/Sections of the Court positively on or before the 05th day of the succeeding month.

I am therefore to request you to take necessary steps for effective implementation of the above stated instructions of the Hon'ble Court and the Judicial Officers working within your jurisdiction accordingly.

The above stated directions of the Hon'ble Court be kept in the guard files for future reference.

Yours faithfully,
T.K.MOHANTY
MEMBER-SECRETARY, SCMS

511

No. 11992(30)/ Dated 30.09.2019

From,

Shri T.K.Mohanty
Member- Secretary, SCMS

To,

The District Judge.....(All)

Sub: Pendency and Disposal of 5/10/25 year old case.

Madam/Sir,

While reiterating the previous instructions on the captioned subject, I am directed to impress upon you:

- I. That, the matter relating to disposal of more number of 5/10/25 year old cases be discussed in the monthly District Court Management System Committee, judicial Officers' Meeting, Senior Officers' Meeting and Police Magistracy Cooperation Meeting.
- II. To bestow your personal attention for disposal of more number of 5/10/25 year old case and impress upon the judicial Officers and Court staff under your control to strive hard for disposal of more number of 5/10/25 year old cases.
- III. That, more number of 5/10/25 year old cases be identified and placed regularly in the Lok Adalats.

I am therefore to request you to take all necessary steps for effective implementation of the above stated instructions of the Hon'ble Court.

The above stated directions of the Hon'ble Court be kept in the guard files for future references.

Yours faithfully,
T.K.MOHANTY
MEMBER-SECRETARY, SCMS

512

No. 12156(30) / Dated 03.10.2019

From

Shri P.K.Patra
Registrar (Inspection)

To

The District & Sessions Judge,.....(All)

Sub: Order No.3 Dated 20.09.2019 of Hon'ble the Orissa High Court passed in
BLAPL No. 5845 of 2019 (Bhagabati Behera -Vs.-State of Odisha).

Sir,

With reference to the subject cited above, I am directed to send herewith a
copy of order No. 3 Dtd. 20.09.2019 passed by Hon'ble the Orissa High Court in
BLAPL No. 5845 of 2019 (Bhagabati Behera -Vs.-State of Odisha) for your
information and guidance.

Further, you are requested to circulate a copy of the said order to all the
Courts working within your jurisdiction for their information and guidance.

Yours faithfully,

P. K. PATRA
REGISTRAR (INSPECTION)

BLAPL NO. 5845 OF 2019
IN THE HIGH COURT OF ORISSA, CUTTACK
Date of order 20.09.2019

Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner being in custody in C.T. Special (P) Case No. of 10 of 2019, arising out of Balimi P.S .Case No. 80 of 2018, pending in the court of learned Judge, Special Court (POCSO), Dhenkanal has filed this petition for his release in bail. The offences alleged against the petitioner are punishable under sections 363/366, 376(2)(n)/376(3)/109/34 of I.P.C. read with sections 6 and 17 of POCSO Act.

The allegation against the petitioner is that he along with others assisted the man accused Arun Bhutia in kidnapping the victim and committing rape on her.

Perused the statement of the victim who is fourteen years seven months old recorded under Section 164 Cr.P.C. wherein she has Stated that at the instance of the present petitioner she wanted to flee away with the one Arun Bhutia who happens to be the brother of the present petitioner and another co accused, namely Susama Behera. It further appears that since Arun was not agreeable to the same, the victim had come back and stayed with her parents and she was agreeable to marry to one of the accused namely, Bharat Nayak after attaining the age of eighteen years.

Learned counsel for the State. However, opposes the prayer for bail of the petitioner advancing the submission that the victim has been subjected to the commission of the alleged offences at the instigation of the present petitioner.

Considering the facts and submissions made, especially the nature of accusation character of evidence appearing against the petitioner and circumstances in which the offences are alleged to have been committed, factors of completion of investigation with submission of charge sheet and hardly any material being there to suggest that the petitioner is likely to abscond and, or tamper with the prosecution evidence, if enlarged on bail, I am of the view that the petitioner deserves to be released on bail.

Hence, the petitioner be released on bail in the aforesaid case by the court in seisin over the matter on such terms and conditions as it would deem just and proper.

However, a perusal of the statement of the victim recorded by the Magistrate, Dhenkanal under Section 164 of Cr.P.C. In this case gives an impression that the learned Magistrate is ignorant of the manner of recording of such a statement. He appears to have not elicited the required clarificatory version of the victim before documenting the statement under Section 164 of Cr.P.C. This Court very often comes across such deficiencies and irregularities, especially in the cases of sexual offences and POCSO cases for which the Court is unable to decipher the meaning of the statement.

In the above premises, a copy of this order be sent to the Registrar, inspection and Enquiry, High Court of Orissa to circulate the same to all courts below with appropriate direction that the statement of the victim or other witnesses under Section 164 of Cr.P.C. must be recorded in odiya language easily understandable by all as directed by this Court earlier in another bail application, and the concerned Magistrate must get clarification from the victim before recording her statement otherwise the same will prove sans merit in the matter of consideration of the bail petitions, especially in sexual offence cases and also in POCSO Cases.

With the aforesaid observation, this bail applications stands disposal of.

Issue urgent certified copy as per Rules.

Copy of this order be communicated to Director of Public prosecutor to apprise the Public Prosecutor to see the statement to be recorded in proper manner and understandable meaning thereof.

S. PUJAHARI, J.

No. 12670(30)/ Dated 23.10.2019

From

Ms. Minakshi Das,
Secretary, Juvenile Justice Committee
& POCSO Committee

To

The District & Sessions Judge.....(All)

Sub: Order No.3 Dated 27.09.2019 of Hon'ble the High Court of Orissa passed in
BLAPL No. 6501 of 2019 (Sanjaya Jena-Vs.-State of Odisha).

Sir,

With reference to the subject cited above, I am directed to send herewith a copy of order No. 3 Dtd. 27.09.2019 passed by Hon'ble the High Court of Orissa in BLAPL No. 6501 of 2019 (Sanjaya Jena-Vs.-State of Odisha) for your information and request you to circulate a copy of the said order to all the Judicial Officers working within your jurisdiction for their information and guidance.

Further, you are requested to take up the matter in the Senior Officers' meeting with the Superintendent of Police concerned so that the Police shall impress the Investigating officers/Inspectors In-charge to prevent unauthorized availability of statement of the victim.

Yours faithfully,

MS. MINAKSHI DAS
SECRETARY,
JUVENILE JUSTICE COMMITTEE
& POCSO COMMITTEE

IN THE HIGH COURT OF ORISSA, CUTTACK

Sanjay Jena

petitioner

State of Orissa

opposite party

BLAPL No.6501 of 2019

Date of Order 27.09.2019

Heard Learned counsel for the petitioner and learned counsel for the State

The petitioner being in custody in G.R. Case No.932 of 2019 arising out of Nikirei P.S. Case No.72 of 2019 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Kendrapara has filed this petition for his release on bail. The offences alleged against the petitioner are punishable under Section 363/366/376(2)(N)/ 294/506/34 of 1.P.C. read with Section 6 of POCSO Act.

The photo copy of the statement of the victim recorded under Section 164,. Cr. P.C. is produced by the counsel for the petitioner and the same be kept on record.

The statement of the victim recorded under Section 164, Cr. P.C. reveals that she eloped with the petitioner but she has not whispered a single word about any sexual assault on her by the petitioner. In the meanwhile, the victim has become major and married to the petitioner in a temple as stated by the petitioner.

On consideration of the aforesaid facts and submissions, especially the nature of accusation circumstances in which the offences alleged to have been committed, coupled with the fact that the petitioner has no chance of absconding and/or tampering with the evidence, if released on bail, I am of the view that the petitioner deserves to be released on bail.

Hence the petitioner be released on bail in the aforesaid case by the court in seisin over the matter on such terms and conditions as deemed just and proper.

With the aforesaid order, this BLAPL stands disposed of being allowed.

However it is seen that the statements of the victim recorded under Section 164, Cr. P.C. in sexual assault cases are easily made available to the parties unauthorisedly. This case is one of such nature. Hence, all the Session Judges of the State be transmitted with a copy of this order to circulate the same among all the Judicial Officers within their jurisdiction even those who are exercising special Jurisdiction and in other civil side in as much as at some point of time they may also likely to be posted in criminal side, to remain alive to the aforesaid facts so that they can take effective steps when required to prevent such unauthorized availability of the statements keeping the same in the sealed cover. The matter shall also be taken up in the Senior Officers' meeting with the Superintendent of Police concerned by the learned Sessions Judges so that the Police shall also impress the Investigating Officers/ Inspectors In-charge to prevent the unauthorized availability of such documents if made available to the Police Authority Furthermore the copy of the aforesaid statement also be sent to the learned Sessions Judge, Kendrapara along with a copy of this order to enquire into the matter and give a report how such statement has gone to the accused-petitioner unauthorizedly and whether the same was made available to the investigating agency and the date of making the same available. The Sessions Judge shall furnish a report by 15th of November, 2019 and matter be listed on 19th of November, 2019 with the report of learned Sessions Judge, Kendrapara on the enquiry report.

The matter be listed as a disposed of case for further order on the enquiry report.

Issue urgent certified copy as per Rules.

S. PUJAHARI . J

No. 14309 Dated 21.11.2019

From,

Shri T.K. Mohanty
Member- Secretary, SCMS

To,

The District Judge.....(All)

Sub: Monthly pendency and disposal of 5/10 year old cases.....regarding reiteration of "Action Plan".....assessment of the Action Plan fortnightly in the DCMS Committee Meetings.

Ref: i. Court's letter No. 7033 (30) Dtd. 18.07.2017.
ii. Court's letter No. SCMS-01/2019/R/11989(30) Dated 30.09.2019.
iii. Court's letter No. SCMS-01/2019/R/12079(30) Dated 01.10.2019.

Madam/Sir,

I am directed to state that one "Action Plan for subordinate Courts for reducing pendency of 5/10 year old cases to zero" was approved by the Hon'ble Court on 17.07.2017 and the Action plan along with the Guideline to give effect Action Plan were communicated to all the District Judges on 18.07.2017.

To Hon'ble Court while reiterating in the matter, were pleased to impress upon you.

- I. To ensure that all the presiding Officer under your control are strictly adhering to the Action plan prepared by the Court.
- II. To examine, ascertain and monitor the progress in disposal pursuant to the instructions and Guideline issued by the Court to give effect the Action plan.
- III. To assess the progress of the Action plan fortnightly in the DCMS Committee Meetings & to communicate with further Action Plan and

suggestion (s), if any, to the Court. It is to be kept in mind that such assessment should be specific and should not be prepared in a routine manner.

Kindly note that it was communicated that the progress report in respect of the plan will be periodically reviewed by the Court and the Hon'ble SCMS Committee through Video Conferencing.

I am directed to remind you that the progress of the Action plan may be assessed by you fortnightly in the DCMS Committee Meetings and communicated with further Action plan and suggestion(s), if any, to the Court (by the 20th day of the running month in respect of the progress made for the first fortnight, by the 5th day of the succeeding month for the progress made in the second fortnight for the preceding month and by the 5th day of the succeeding month for the progress made in the entire preceding month.

It is requested that while submitting the statistical figures to the Court, the statistical figures of all the Courts of the judgeships (including Family Courts, M.A.C. Tribunals & all other Specially Designated Courts etc) are to be added. For effective facilitation, kindly impress upon all concerned to strictly adhere to the prescribed formats prepared at this end in the spread sheet format, which are attached herewith.

Kindly treat as EXTREMELY IMPORTANT

Yours faithfully,
T.K. MOHANTY
MEMBER-SECRETARY, SCMS

520

1ST FORNIGHT STATEMENT

CHART SHOWING PENDENCY & DISPOSAL OF 5/10/25 YEAR OLD CASES & UTP CASES FOR THE 1ST FORNIGHT OF THE MONTH FROM DATE.....TO DATE.....

SL. NO.	Name of the Judgeship	Total no. of cases pending at the beginning of the 1 st fortnight				Number of cases disposed of during the 1 st Fortnight				Total no. of cases pending at the end of the 1 st fortnight				
		5 to 10 years	More than 10 years	More than 25 years	UTP cases	5 to 10 years	More than 10 years	More than 25 years	UTP cases	5 to 10 years	More than 10 years	More than 25 years	Total	
		Civil	Criminal	Total	Civil	Criminal	Total		Civil	Criminal	Total	Civil	Criminal	Total

521

2ND FORTNIGHT STATEMENT

CHART SHOWING PENDENCY & DISPOSAL OF 5/10/25 YEAR OLD CASES & UTP CASES FOR THE 2ND FORTNIGHT OF THE MONTH FROM
DATE..... TO DATE.....

S L. N O.	Name of the Judge ship	Total no. of cases pending at the beginning of the 2 nd fortnight			Number of cases disposed of during the 2 nd Fortnight			Total no. of cases pending at the end of the 2 nd fortnight																				
		5 to 10 years	More than 10years	More than 25 years	UT P cas es	5 to 10 years	More than 10years	More than 25 years	UTP cases	5 to 10 years	More than 10 years	More than 25 years	Civil	Criminal	Total	Civil	Criminal	Total	Civil	Criminal	Total							
		Civil	Criminal	Total		Civil	Criminal	Total		Civil	Criminal	Total		Civil	Criminal	Total		Civil	Criminal	Total		Civil	Criminal	Total		Civil	Criminal	Total

522

3rd FORTNIGHT STATEMENT

CHART SHOWING PENDENCY & DISPOSAL OF 5/10/25 YEAR OLD CASES & UTP CASES FOR THE 3rd FORTNIGHT OF THE MONTH FROM DATE.....TO DATE.....

SL. NO.	Name of the Judge/ship	Total no. of cases pending at the beginning of the month						Number of cases disposed of during the month						Total no. of cases pending at the end of the month									
		5 to 10 years		More than 10 years		More than 25 years		UTP cases		5 to 10 years		More than 10 years		More than 25 years		5 to 10 years		More than 10 years		More than 25 years			
		Civil	Criminal	Total	Civil	Criminal	Total	Civil	Criminal	Total	Civil	Criminal	Total	Civil	Criminal	Total	Civil	Criminal	Total	Civil	Criminal	Total	

523

No. 3468 Dated. 02.03.2020

From

Shri R. K. Pattanaik,
Registrar General

To

The District & Sessions Judge.....(All)

Sub: Judgment Dtd. 18.12.2019 passed by Hon'ble the Supreme Court of India in Criminal Appeal Nos. 62-63 of 2014 (Anokhilal Vrs. State of Madhya Pradesh).

Sir,

I am directed to forward herewith a copy of the judgment Dtd. 18.12.2019 passed by Hon'ble the Supreme Court of India in Criminal Appeal No.62-63 of 2014 (Anokhilal Vrs. State of Madhya Pradesh) for your information and guidance.

Yours faithfully,

R. K. PATTANAİK

REGISTRAR GENERAL

No. 3562(30) Dated. 03.03.2020

From,

Shri R Dash
Member-Secretary, SCMS

To

The District Judges,.....(All)

Sub: Implementation of the direction of Hon'ble the SCMS Committee meeting held on 20.02.2020.

Madam/Sir,

I am to say that the matter regarding pendency and disposal of 5/10 year old cases & UTP cases during the month of October-December, 2020 was discussed in the meeting of the SCMS Committee held on 20.02.2020.

I am directed to impress you the following observations of the Hon'ble Court which are required to be followed for disposal of such cases.

- I. To bestow personal attention for disposal of number of 5/10 year old cases and impress upon the Judicial Officer Working under your control to strive hard for disposal of more number of 5/10 year old cases.
- II. To strictly adhere the Action Plan prepared by the Court.
- III. To adhere the ADR methods for disposal more number of 5/10 year cases after proper identification of those cases.
- IV. To prepare the action plan in each month for disposal more number of more than 10years old cases, after obtaining the status report (in proper format i.e SL. No Case No. and present position of the case) from each Court under your control and give specific direction to each Officer (in case of Civil Cases) and through the C.J.M (in case of Criminal Cases) & to monitor the same through DCMS Committee for effective implementation of action plan approved as per Minutes of the Hon'ble SCMS Committee

525

Dtd. 17.07.2017 and communicated to all the District Judges vide letter No. 7033 (30) Dtd. 18.07.2017.

I am therefore to request you to take all necessary steps for effective implementation of the above direction of the Hon'ble Court and report compliance in time.

Yours faithfully,
R Dash
MEMBER-SECRETARY, SCMS

526

No. 6595/ Dtd.13.07.2020

From,

Shri R Dash
Member-Secretary, SCMS

To

The District & Sessions Judges,.....(All)

Sub: Submission of report showing pendency and Disposal of cases pending for more than 25 years old (both civil & criminal side)

Ref: Court's letter No. 804(30) dtd. 17.01.2020

Madm/Sir,

In inviting reference to above Court's letter and captioned subject, I am directed to say that the Hon'ble Court have been pleased to direct you to submit the report regarding progress made on disposal of cases pending for more than 25 years monthly instead of fortnight to this Hon'ble Court by 5th of every succeeding month.

This is for your kind information and necessary action.

YOURS FAITHFULLY,
R Dash
MEMBER-SECRETARY, SCMS

No.7508 (30)/Dated.14.08.2020

From

Shri S. S. Jena,
Registrar (Vigilance),

To

The District and Sessions Judges(All)

Sub: Jail visits conducted by the District and Sessions Judges.

Sir,

It has come to the notice of this Hon'ble Court that there is lack of adequate meticulous verification by the District and Sessions Judges with regard to the reason for detention of the detenus inside the prisons while visiting the jails and the sub-jails. Legality for detention of the detenus inside the prisons is to be thoroughly verified by the Sessions Judges conducting the jail visits. Illegal detention of a person inside the prison is anathema to rule of law.

I am directed to convey that henceforth all the District and Sessions Judges of the State shall furnish special certificate along with their quarterly jail visit reports in the following lines.

1. No instance of gross violation of human rights of the detenus came to his notice during jail visits.
2. No detenus was found to be under illegal detention inside jail during his jail visit.
3. No convict has been detained in jail custody beyond the period of sentence imposed on him/her.

The above direction shall be followed strictly without deviation.

Yours sincerely,

S. S. JENA

REGISTRAR (VIGILANCE)

THE HIGH COURT OF ORISSA, CUTTACK

NOTIFICATION

NO.906/R DATE 17.08.2020

In suppression of earlier yardstick System communicated vide letter No. 4705 (14) Dtd. 19.05.2004 and unit System communicated vide notification No. 1061/R dt.18.9.2017 and memo No.9349(120) Dtd.18.09.2017, the Hon'ble Court have been pleased to adopt the following Modified Yardstick system for assessment of judicial work by the judicial officers of the State with effect from January, 2020

YARDSTICK FOR JUDICIAL OFFICERS

A.		IN THE CADRE OF DISTRICT JUDGES	
		Nature of cases	Yardstick fixed (For Disposal of one case)
	1)	Special Judge Case (Vigilance)/ Special Court/ Special CBI Court	
	a)	Trap Case	7 days
	b)	DA/ Embezzlement case/ Delhi S.P.E Cases (C.B.I)	10 days
	2)	Sessions Cases / NDPS/ POCSO cases/ Offence under I.P.C. exclusively triable by Court Sessions along with offence under S.C & S.T.(P.A) Act, 1989.	4 days
	3)	Offence under S.C.& S.T. (P.A.) Act,1989 read with other offences under I.P.C.	2 days
	4)	Criminal Appeals/ Jail Criminal Appeals	1 day from the decisions of Asst. Sessions Judges. 2 cases per day from the decisions of the Judicial Magistrates.
	5)	Criminal Revisions	Two Cases per day
	6)	Original suits/ Civil Appeals (RFA)	2 days
	7)	T.M.S, M.S & Other Suits/ Election cases	2 days
	8)	Civil Revisions	Two cases per day
	9)	Civil Misc. Appeal/ Misc. case/ Guardian Petition/ Arbitration/ Testamentary/	Two cases per day

		Interim Application/ Execution	
	10)	H.R.C. Appeals/ Matrimonial cases	3 days
	11)	Cases under O.P.I.D Act	7 days
	12)	L.A Cases (Land Acquisition Tribunal)	2 days
	13)	MISCELLANEOUS CASES	
	a)	Cases Under Sec. 166 under the Motor Vehicles Act	One case in one day
	b)	Cases Under Sec. 140 M.V. Act (contested)	Two cases per day
	c)	Cases Under Sec. 140 M.V. Act (Uncontested)	Five cases per day
	d)	Cases under the Employees State Insurance Act/ Cases under the Juvenile Justice (Care and protection of Children Act, 2000)/ Cases under any other Special Act.	One case in one day
	e)	Misc Cases U/o-21 Rule 58 C.P.C.	One case in two days
	f)	Petition u/o. 39 Rule 4 CPC/ cases under the CPC/ CrI. Misc Cases including U/s 408,440 Cr.P.C and Transfer petitions.	Eight cases per day
	g)	Bail applications U/s 438 and 439 Cr.P.C	Eight cases per day
	14)	<u>Judge, Family Court</u>	
	1)	Contested Suits/ Cases under Family Courts Act except proceeding U/s. 125 Cr.P.C	3 days
	2)	Uncontested Suits, Cases / I.A. under Family courts Act	2 cases per day
	3)	Ex-parte cases	5 cases per day
	4)	Proceeding U/s 125 Cr.P.C	1 day
	5)	Execution cases	Two cases per day
B.		<u>CIVIL JUDGE (SENIOR DIVISION)</u>	
	1.	Contested Title Suits	4 days
	2.	Contested Suits (M.S., T.M.S & Other suits)	2 days
	3.	Regular Appeals	i) Two days per title Appeal ii) Two Money Appeals per day
	4.	Misc. Appeals	Five per day

	5.	Ex-parte Suits	Five Suits per day
	6.	Matrimonial cases/ Election Cases under special Acts including Orissa Panchayat Samiti Act/ LA cases.	2 days
	7.	Suits/ cases relating to Commercial Dispute	4 days
MISC. JUDICIAL CASES			
	8.	Cases under the Special Acts/ Succession cases/ Final Decree proceedings/ Execution cases/ Arbitration Cases/ U/s. 5,8,11,13,20 & 30 of Arbitration Act, 1940/ Essential Commodities (Special Provisions) Act.	Two cases per day
	9.	Cases under C.P.C. (Misc. case/ I.A/MJC)/S.C.C. Suits	Five cases per day
<u>C.J.M. / ASSISTANT SESSIONS JUDGES</u>			
C.	1.	Sessions	4 days
	2.	Embezzlement cases	5 days
	3	Principal Magistrate, JJB (All Cases)	2 days
	4	Magisterial Triable Cases	250 cases per year
<u>CIVIL JUDGE (JUNIOR DIVISION)</u>			
D.	1.	Title Suits	3 days
	2.	Money Suits, T.M.S. and other Suits	1 day
	3.	Election Cases under the O.G.P. Act.	2 days
	4.	S.C.C. Suits/ Interim Application	5 cases per day
	5.	Final Decree proceedings / Execution Cases/ Ex-parte Suits	5 cases per day
<u>CONTESTED CRIMINAL CASES FOR JUDICIAL MAGISTRATES</u>			
E.	1.	S.D.J.M./Magistrate taking cognizance	250 cases per year
	2.	Judicial Magistrate and Magistrate not taking cognizance	350 cases per year
	3.	Cases u/s 125 Cr.P.C	1 day
	4.	Petty Offences u/s 206 Cr.P.C(Motor Vehicle) / Cases on admission in Criminal side (uncontested)	15 cases per day

<u>INDUSTRIAL TRIBUNAL / LABOUR COURTS</u>			
F.	1.	Industrial Dispute Cases u/s 10 & 12	3 days
	2.	I.D. Misc Cases. (un-contested)	10 cases per day
	3.	Misc. Cases u/s 33	2 days
<u>SALES TAX TRIBUNAL</u>			
G.	1.	Cases of 2 assesses per day	
<u>ENDOWMENT COMMISSIONER / DEPUTY COMMISSIONER /ADDITIONAL / ASSISTANT COMMISSIONER</u>			
H.	1.	Under Sec. 19	1 day
	2.	Under Sec. 25	2 days
	3.	Under Sec. 41	4 days
	4.	Under Sec. 42	4 days
	5.	Under Sec. 44	2 days
	6.	Under Sec. 68	3 cases per Commissioner and 5 cases per Asst. Commissioner per day
<u>P.O., EDUCATIONAL TRIBUNAL</u>			
I.	1.	G.I.A. cases	3 days
	2.	Educational Appeal	2 days
	3.	Execution cases	1 day
	4.	I.A.	4 cases per day

: INSTRUCTIONS :

- Total number of working days per year is to be treated 240 working days.
- Registrars of Civil Courts shall reach the prescribed yardstick/outturn for the days devoted to judicial work.
- For Commissioner Endowments and for Assistant Commissioners Endowments there shall be 50% reduction of working days and for deputy Commissioners there shall be 60% reduction of working days for the purpose of computation of the outturn.

- In case of adjudication of any proceedings during execution alike a suit, the said proceeding shall be given equal days allotted to the Suit of that Court.
Example-Order 21 Rule 58, Order 21 Rule 97,99,100,101 C.P.C. etc. and Rule 429, 430 of the GR & CO (Civil) Vol-I,1985 edition.
- District Judges, Senior Civil Judges and Civil Judges who are dealing with first hearing matters shall get 1/5th reduction of days devoted for judicial work.
- Judges/ Magistrates taking Cognizance shall get 1/5th reduction of days devoted for judicial work
- 20% of the days justified by the officers during the year may be given as grace days to the officers, where the pendency is less than-
In DJ cadre-300 cases
In CJ(SD) cadre-500 cases
In CJ (JD) cadre/magisterial courts-1000 cases
- Incentives for disposal of year old cases
All kinds of 5 to 10 years old cases-25% of the Yardstick prescribed for the case.
All kinds of 10 to 20 years old cases-50% of the Yardstick prescribed for the case.
All kinds of more than 20 years old cases-75% of the yardstick prescribed for the case.
- Cases disposed of through ADR mechanism -10% of the Yardstick prescribed for the case.

BY ORDER OF THE COURT
(RAJESH DASH)
MEMBER-SECRETARY, SCMS

533

NO. 12319 (30) Dated. 23.12.2020

From

Shri L.K. Dash
Registrar (Judicial)

To

The District & Sessions Judge,.....(All)

Sub: Order Dtd. 04.12.2020 passed by Hon'ble the High Court of Orissa in CRLREV
No.451 of 2020(Laxmidhar Behera Vrs State of Odisha).

Sir,

I am directed to forward herewith a copy of Order Dtd. 04.12.2020 passed by
Hon'ble the High Court of Orissa in CRLREV No. 451 of 2020 (Laxmidhar Behera Vrs
State of Odisha) for your information and guidance and to request you to appraise
to the Judicial Officers working under your control for information and strict
adherence.

Yours faithfully
L.K. Dash
REGISTRAR (JUDICIAL)

Encl. As above

789(30) /Dtd.19.01.2021

From

Shri L.K.Dash
Registrar (Judicial)

To

The District & Sessions Judge,.....(All)

Sub Designation of a Complaint Officer under Section-11 of the Transgender Persons (Protection of Rights) Act, 2019 to deal with the complaints relating to violation of the provisions of the said Act.

Sir/Madam,

I am to say that Section -11 of the Transgender Persons (Protection of Rights) Act, 2019 provides that every establishment shall designate a person to be a Complaint officer to deal with the complaints relating to violation of the provisions of this Act and the Addl. Secretary to Govt. of Odisha, Home Deptt. Vide their letter No. 40779/CP & M Dtd. 21.12.2020 has requested to designate a Complaint Officer for the said purpose.

While considering the aforesaid proposal of the State Govt., the Hon'ble Court have been pleased to direct you to designate a Complaint Officer for your respective establishment to deal with the complaints relating to violation of the provisions of the Transgender Persons (Protection of rights) Act,2019.

In enclosing a copy of the Home Deptt.letter along with enclosures referred above, I am directed to request you to take necessary steps as per the aforesaid instruction of the Court and intimate the Court accordingly.

This may be treated as Most Urgent.

Yours faithfully
L.K. DASH
REGISTRAR (JUDICIAL)

535

No. 40779/C P & M/ Dated: 21.12.2020

HOME-CPM-MISC-0350-2020

From

Sri. P.C. Pradhan. I.A.S.
Additional Secretary to Government.

To

The Director General and Inspector General of Police, Odisha, Cuttack./ The Chief Resident Commissioner, Odisha Bhawan, New Delhi./ The Chief Electoral Officer & Ex-officio principal Secretary to Government, Home (Election) Department./ The D.G. of police, fire Services, Commandant General of Home Guards and Director, Civil Defence, Odisha, Cuttack./ the special D.G of Police-cum-I.G. of prisons and D.C.S, Odisha, Bhubaneswar/ The Chairman-cum-Managing Director, State police Housing & Welfare Corporation, Bhubaneswar./ The Registrar (General) Orissa High Court, Cuttack/ The Director, Odisha Judicial Academy, Cuttack/ The Director, Public Prosecution, Odisha, Bhubaneswar./ The Secretary, Rajya Sainik Board, Bhubaneswar./ The Principal. OSTI. Bhubaneswar./ The Principal, O.S & T.I., Bhubaneswar/ The Manager State Guest House, Bhubaneswar

Sub: To designate complaint Officer to deal with the complaints related to violation of the provisions of the Transgender persons (Protection of Rights) Act, 2019 under section 11 of the Transgender Persons (Protection of Rights) Act, 2019

In inviting a reference to the subject noted above, I am directed to send herewith a copy of Letters No.7899 dated 20.11.2020, letter No. 7901 dated 20.11.2020 and letter No. 7903 dated 20.11.2020 of Commissioner-cum-Secretary, Department of Social Security & Empowerment of Persons with Disability and request to take appropriate action and to send a report on the action taken as well as the proposal, if any to this Department for further action. This may please be treated as Extremely Urgent

Yours faithfully,

Sd/-

Additional Secretary to Government

No. 1074 (30) dated the 25.01 2021

From

Shri P.K.Patra, O.S.J.S.,
Registrar (Inspection)

To

The District & Sessions Judge (All)

Sub: Interaction of Hon'ble the Chief Justice in presence of Hon'ble Kumari Justice S.Panda and Hon'ble Sri Justice S.K. Mishra with all Principal District Judges of the State held on 11th & 12th January, 2021 through Video Conference.

Sir,

With reference to the subject cited above, I am directed to communicate the following suggestions came up during the interaction held on 11th & 12th January, 2021.

1. Reconcile the figures pertaining to pendency position as per the statement with physical pendency and report compliance within one month.
2. Up-to-date entry of cases in NJDG portal and proper use of the same to make action plan within one month.
3. Find out the bottlenecks in disposal of year old Civil and Criminal cases and explore ways and means to overcome the same.
4. To ensure that no UTP should be in jail for more than the punishment provided for,
5. Early disposal of year old civil, criminal and UTP cases, Special emphasis to be given by way of personal initiative, for disposal of 25 years/ 40 years old cases within a time frame by placing trial on consecutive dates not to allow adjournments liberally in these cases.

Further, you are directed to submit a list of 25 year old/40 year old cases with short explanation and reasons for non-disposal of the same with tentative date of disposal as per the enclosed format (excel sheet as well as PDF format) by 27.01.2021 without fail.

6. For cases pending execution of warrant along with process u/s 82 & 83 of Cr. P.C., Rule-326 of G.R.C.O. (Criminal) be scrupulously followed,
7. Explore the utility of Mediation Centres for redressal of litigations/dispute.
8. Follow the direction given by the Hon'ble Apex Court in Asian Resurfacing of Road Agency Vs. Central Bureau of Investigation, (Miscellaneous Application No. 1577 of 2020 arising out of Criminal Appeal No.s 1375-1376 of 2013) in letter and spirit.
9. Meeting with Judicial Officers of your judgeship (physically/virtually) to take stock of the progress at least twice a month without hampering judicial work.

Therefore, I am directed to request you to follow the above suggestions scrupulously and to put your best endeavor for proper implementation of the same, so as to achieve considerable disposal within a targeted period.

Yours faithfully,
P.K.PATRA
REGISTRAR (INSPECTION)

No. 2977(30)/ Dtd.04.03.2021

From,

Shri Rajesh Dash
Member-Secretary, SCMS

To,

The District & Sessions Judges.....(All)

Sub: Preparation of Case Calendar in Criminal Cases and to adhere it strictly for disposal of Cases.

Ref: Court's Letter No. 2894(30) dtd. 03.03.2021.

Madam/Sir,

In continuation to the letter referred above, I am directed to enclose herewith the revised format of the Case Calendar to prepare the same in all criminal cases from the 1st stage reflected in it and to affix invariably in the front page of each record/ file within a period of three months.

Therefore, I am request you to circulate the revised case Calendar (as enclosed) amongst the officers holding criminal under your jurisdiction and to instruct them for strict adherence to the same for disposal of the cases.

YOURS FAITHFULLY,
RAJESH DASH
MEMBER-SECRETARY, SCMS

Enclosure: Format of Case Calendar- 1 sheet

CASE CALENDAR FOR CRIMINAL CASES			
(MAXIMUM DURATION THREE MONTHS)			
SL. NO	STAGE OF CASE	DURATION	TENTATIVE DATE
1 st Date	Framing of Charge		
2 nd Date	Examination of prosecution Witnesses.	It should be continued from day to day unless concluded. There shall be a departure after recording of reasoning. Maximum duration should be one month from the date of framing of charge.	
3 rd Date	Recording of statement of accused persons	Shall be done immediately after the clouser of prosecution evidence or within a maximum period of seven days from the date.	
4 th Date	Defence Evidence	In normal case, it should be done within seven days from the recording of the statement of the accused.	
5 th Date	Argument	Seven days from the date of conclusion of the defence evidence.	
6 th Date	Judgment	Within 15 days from the date of conclusion of the argument.	

No. 3121/ Dtd.05.03.2021

From,

Shri Rajesh Dash.
Member-Secretary, SCMS

To

The District & Sessions Judges,.....(All)

Sub: Observation of the Hon'ble Court relating to the cases pending for more than 10 years in the Subordinate Courts of the State due to stay orders passed by the Hon'ble Court.

Madam/Sir,

With reference to the captioned subject, I am directed to intimate that the Hon'ble SCMS Committee while considering the matter regarding cases pending for more than 10years in the Subordinate Courts of the State due to stay orders passed by the Hon'ble Court, have been pleased to impress upon you to instruct all the officers under your control to scrupulously follow the decision of the Hon'ble Apex Court in the case of Asian Resurfacing of Road Agency PVT. Ltd & Another Vrs Central Bureau of Investigation in the trial of Civil and Criminal cases.

Yours faithfully,
RAJESH DASH
MEMBER-SECRETARY, SCMS

No. 3773 (30) Dated 18.03.2021

From,

Shri Pratap Kumar Patra, O.S.J.S
Registrar (Inspection)

To

The District & Sessions Judge.....(All)

Sub: Submission of Compliance report of disposal of 25/40 years old cases from 04.03.2021 to 18.03.2021.

Madam/Sir,

With reference to above captioned subject. I am directed to request you to furnish the required information so as to reach this Court by 1pm tomorrow positively through E-mail to statisticsohc@gamil.com in below given format.

Further, the same information may be sent to the Court Fortnightly hence forth along with the details of the Disposed of cases.

1. How many 25-40 year old cases disposed of during 04.03.2021 to 18.03.2021?

Pendency of over 40 yrs. Cases as on 03.03.2021		Pendency of 25 to 40 yrs. Cases as on 03.03.2021		Over 40 yrs disposal during 04.03.2021 to 18.03.2021		25 to 40 yrs disposal during 04.03.2021 to 18.03.2021.		Pendency of over 40 yrs. Cases as on 18.03.2021		Pendency of 25 to 40 yrs cases as on 18.03.2021	
Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal

2. Whether all the 25-40 year old cases disposed of till 18.03.2021 are uploaded in NJDG Portal.

3. Soft copies (Pdf format) of all such Judgments and orders pleas be sent to above mentioned mail id on the date of disposal, henceforth.

The nomenclature of that file must be in the following order (example- Disposed case number is MAC 25 of 1995 and date of disposal is 15.03.2021, the file name will be MAC-25-1995-15.03.2021)

4. What measures are taken for disposal of 25-40 year old Execution proceeding?

N.B: The Court Manager is to place this copy before the respective Authority and ensure compliance of the same.

Yours faithfully,
PRATAP KUMAR PATRA
REGISTRAR (INSPECTION)

No. 3824(30) Dated 19.03.2021

From,

Shri Pratap Kumar Patra, O.S.J.S
Registrar (Inspection)

To

The District & Sessions Judge.....(All)

Sub: Observation made by this Court in pursuance of Interaction of Hon'ble the Chief Justice with some judgship through Video Conference on 17th March, 2021.

Sir/Madam,

With reference to the subject captioned above, I am to say that during the Course of interaction of Hon'ble the Chief Justice in presence of Hon'ble Shri Justice S.K. Mishra and Hon'ble Shri Justice C.R. Dash with the District Judges of the Districts of Baragarh, Bolangir, Deogarh, Jharsuguda, Kalahandi, Nuapada, Sambalpur, Sonepur and Sundargarh on 17th March, 2021 at 04.45 P.M. through Video Conferencing, His Lordship taking into note of the issues viz. (i) participation of the members of the Bar Associations in the limited or chosen cases in the Court proceedings due to COVID-19, (ii) early disposal of 25/40 year old cases and (iii) emphasizing disposal of Execution Proceedings, pleased to impart the following instructions to all the District Judges of the State for necessary compliance.

1. Participation of the members of the Bar Associations in limited or chosen cases in the Court proceedings due to COVID-19.
 - (i) To take up this issue with the Office Bearers of the Bar Associations and to persuade them to participate in the Court proceedings in all cases instead of limited or chosen cases.
 - (ii) To make the members of the Bar Associations and Court staff aware of the COVID-19 protocol with the help of the C.D.M.O.s of the District.

- (iii) To convene meeting with the P.O.s of the Court of the outlying stations under your respective jurisdiction through Video Conferencing in order to impress upon them the need to persuade the Office Bearers of the Local Bar Associations to participate in the Court proceeding in all cases instead of limited or chosen cases.
- (iv) To communicate promptly to Hon'ble the Chief Justice whether, on daily basis there is full participation by the Bar members in the Court proceeding in cases. The communication to be sent by the lunch hour through e-mail.

2. Early Disposal of 25-40 years old cases.

- (i) To take effective steps to substantially reduce the pendency of such cases by next meeting schedule to be held on 15th & 16th April, 2021.
- (ii) To explore a proposal in the senior officers meeting for execution of warrant through a special drive.
- (iii) To convene meeting through V.C. with the Judicial Officers working under your respective jurisdictions for disposal of 25/40 year old cases.
- (iv) To adhere to the principles laid down in the Hon'ble Supreme Court Judgement in *Asian Resurfacing of Road Agency Vrs. Central Bureau of investigation* and to proceed with the trial of cases.
- (v) To locate and examine the disposal orders of the High Court already communicated to you and to proceed with the cases.

3. Emphasizing disposal of Execution Proceedings.

To find out ways and means, as per rules, for expeditious disposal of Executive Proceedings pending in your respective jurisdictions.

Yours faithfully,
PRATAP KUMAR PATRA
REGISTRAR (INSPECTION)

545

No. 3953 (30) Dated 24.03.2021

From

Shri P.K. Patra, O.S.J.S.,
Registrar (Inspection)

To

District & Sessions Judge.....(All)

Sub: Information pertaining to 25 to 40 years/ over 40 year old cases.

Ref: Court's Letter No. 3773 (30) dtd. 18.03.2021.

Sir/Madam,

In partial modification of point No. 1 of Court's earlier Letter No. 3773(30) dtd. 18.03.2021, I am to request you to furnish 25-40 year and over 40 year old cases disposed of during 01.01.2021 to 15.03.2021 on fortnight basis as per proforma enclosed herewith. Further, point Nos. 2,3, & 4 remains unaltered. Such report be submitted to the undersigned in every fortnight henceforth.

Again, you are requested to furnish the above information to this Court by tomorrow positively through E-mail.

Yours faithfully,
P.K. PATRA
REGISTRAR (INSPECTION))

No. RJ/364 Dated 15.04.2021

From,

Shri Suman Kumar Mishra,
Registrar (Judicial)

To

The District Judge(All)

Sub: Withdrawal of instructions regarding submission of monthly statement in respect of applications U/s. 438 of Code of Criminal Procedure, 1973.

Ref: Court's Letter Nos. 12549/XII-10/75 dated 21.08.1975 and 30/XLIX-D-19-90 dated 03.01.1992.

Sir,

I am directed to inform that the Hon'ble Court has been pleased to withdraw the instructions imparted vide Court's Letter Nos. 12549/XII-10/75 dated 21.08.1975 and 30/XLIX-D-19-90 dated 03.01.1992 regarding submission of monthly statement in respect of applications U/s- 438 of Code of Criminal Procedure, 1973.

Therefore, the practice of furnishing monthly statement in respect of applications U/s. 438 of Code of Criminal Procedure, 1973 may be discontinued with immediate effect.

Yours faithfully,
SUMAN KUMAR MISHRA
REGISTRAR (JUDICIAL)

Letter No. 5362(30)/ Dated 23.04.2021

From

Shri Pratap Kumar Patra. O.S.J.S
Registrar (Inspection)

To

The District & Sessions Judge.....(All)

Sub: Order of Hon'ble Supreme Court of India in Suo Motu Writ Petition
(Criminal) No. 2/2020

Sir/Madam,

I am directed to send here with the copy of order dated 16th April, 2021 passed in Suo Motu Writ Petition (Crl.) No. 2 of 2020 (In Re: Expeditious Trial of Cases under section 138 of N.I. Act, 1881) by the Hon'ble Supreme Court of India regarding "Practice Direction" for expeditious trial of cases under section 138 of N.I. Act, 1881 for circulation among the Judicial officers of your Judgeship for information and guidance.

Yours faithfully
P.K. PATRA
REGISTRAR (INSPECTION)

548

No. 19917(30)/Dtd.21.02.2022

From,

The Member Secretary, S.C.M.S.
High Court of Orissa, Cuttack.

To

The District & Sessions Judge.....(All)

Sub: Supply of Annual information relating to "Average time taken for Disposal of cases"

Ref: Court's letter no. 16540 (30) dated 31.10.2022.

Sir/Madam,

In inviting reference to the Court's Letter referred on the above subject (copy enclosed), I am directed to intimate that while considering letter no. N-17/11/2021-NM (6073) dated 16.04.2021 of the Department of Justice, Govt. of India for uploading the required information in the portal of "Average Time Taken for Disposal of Cases", the Hon'ble Court have been pleased to instruct you to supply the required information in the prescribed format by 5th January every year to be uploaded in the said portal.

Therefore, I am directed to request you to furnish the required information for each year relating to all Courts in your Judgeship in the prescribed format by 5th January of the succeeding year in consonance with the procedure mentioned in the referred letter of the Hon'ble Court. The said information is to be furnished to this Court both in Excel and PDF format through ms.scms-ohc@gov.in for uploading.

Further, the required information for the year 2022 should reach the Court by 05.01.2023 positively.

This may be treated as MOST URGENT.

YOURS FAITHFULLY,
PRAVAKAR GANTHIA
MEMBER SECRETARY, SCMS (I/C)

549

No. 4486(30) Dated. 16.03.2022

From,

Member-Secretary, SCMS
Orissa High Court, Cuttack.

To

The District & Sessions Judge, (All)

Sub: Statement showing pendency and disposal of cases pending for more than 25 years.

Ref: Court's letter No. 14309 Dtd. 21.11.2019 & No. 6595 Dtd. 13.07.2020

Madam/Sir,

I am directed to request you to submit the reports regarding pendency and disposal of cases pending for more than 25 years in the format enclosed herewith for your kind reference.

I am therefore request you to submit the report including the data of all the Courts of your judgship including Family Courts, M.A.AC. Tribunals & all other specially Designated Courts etc. By 5th of every month positively.

Yours faithfully,

Sd/-

MEMBER-SECRETARY, SCMS-I/C

CHART SHOWING PENDENCY & DISPOSAL OF 25 YEAR OLD CASES FOR THE MONTHS OF2022																			
Name of the Judgeship	Total number of cases pending at the beginning of the month			Became year old during the month			Received on transfer from other Judgeships during the Month			Transferred to other Judgeships during the month			Total no of cases disposed of during the Month			Total number of cases pending at the end of the Month			
	CIVIL	CRIMINAL	TOTAL	CIVIL	CRIMINAL	TOTAL	CIVIL	CRIMINAL	TOTAL	CIVIL	CRIMINAL	TOTAL	CIVIL	CRIMINAL	TOTAL	CIVIL	CRIMINAL	TOTAL	

551

No. 12841(30). Dated:22.08.2022.

From,

Dr. Bhagyalaxmi Rath,
Registrar (Admn.)

To

The District & Sessions Judge,..... (All)

Sub: Supreme Court Order dtd.25.04.2022 passed in M.A. No.706 of 2022 in M.A. No.1577 of 2020 arising out of Criminal Appeal Nos.1375-1376 of 2013 passed (Asian Resurfacing of Road Agency Pvt. Ltd. and Anr. Vrs. Central Bureau of Investigation)- Reg.

Sir,

I am directed to forward herewith a copy of Order dtd.25.04.2022 passed in M.A. No.706 of 2022 in M.A. No.1577 of 2020 arising out of Criminal Appeal Nos.1375-1376 of 2013 (Asian Resurfacing of Road Agency Pvt. Ltd. and Anr. Vrs. Central Bureau of Investigation) of the Hon'ble Supreme Court of India for information with request to circulate the same among all the Judicial Officers working under your control for strict adherence.

Yours faithfully,
DR. BHAGYALAXMI RATH,
REGISTRAR (ADMN.)

552

No.15706/ Dtd.14.10.2022

From,

Suman Kumar Mishra,
Registrar (Judicial)

To

The District & Sessions Judge,.....(All)

Sub: Judgment Dated 11th July, 2022 of the Hon'ble Supreme Court of India passed in M.A. No .1849 of 2021 arising out of SLA (CrI) No(s). 5191 of 2022 (Satender Kumar Antil Vrs. Central Bureau of Investigation & Anr.).

Sir,

I am directed to forward herewith a copy of Judgment Dated 11th July, 2022 passed in M.A. No.1849 of 2021 arising out of SLA (CrI) No(s).5191 of 2022 (Satender Kumar Antil Vrs. Central Bureau of Investigation & Anr.) of the Hon'ble Supreme Court of India, along with the summary of the observations and directions contained in the aforesaid Judgment (Annexure-I) for information. You are requested to circulate the same among all the Judicial Officers of your jurisdiction for their information and compliance.

Yours faithfully,
SUMAN KUMAR MISHRA
REGISTRAR (JUDICIAL)

NO. 16042 (59) / Dated 20.10.2022

From

Shri Abhilash Senapati,
The Secretary I/c,
Juvenile Justice Committee,

To

1. The District & Sessions Judge,.....(All)
2. The Judge, Family Courts,(All)

Sub: Transfer of adoption cases from your Courts to the District Magistrates in view of JJ (CPC) Model Amendment Rules, 2022.

Sir,

In enclosing herewith a copy of the letter No.11277/L dtd. 11.10.2022 received from the Law Department, Govt. of Odisha, I am directed to request you to transfer all the cases pertaining to adoption pending before your Courts to the District Magistrates of your respective districts as per the sub-rule -3 of Rule-31 of the JJ (Care & Protection of Children) Model Amendment Rules, 2022.

Yours faithfully
A.SENAPATI
SECRETARY I/C,
JUVENILE JUSTICE COMMITTEE

GOVERNMENT OF ODISHA

LAW DEPARTMENT

No.VI-89/2022 11277/ Bhubaneswar, dated the 11th October,2022

From

Shri Pranaya Kumar Das, OSJS
Additional Secretary (J) to Government.

To

The Special Officer (Admn.)
High Court of Orissa, Cuttack

Sub: Transfer of adoption cases from the family Courts/ District Judge Courts to
the District Magistrates

Sir,

In inviting a reference to the subject noted above, I am directed to say that all the cases pertaining to adoption matters pending before the Courts shall be transferred to the District Magistrates as per the Juvenile Justice (Care & Protection of Children) Amendment Rules, 2022

Yours faithfully
PRANAYA KUMAR DAS
ADDITIONAL SECRETARY (J) TO GOVERNMENT.

555

No. 16540(30)/Dtd.31.10.2022

From,

The Member Secretary, S.C.M.S.
High Court of Orissa, Cuttack.

To

The District & Sessions Judge.....(All)

Sub- Revised information relating to "Average time taken for Disposal of cases"

Ref: Earlier Court's letter no. 8587 (30) dated 29.07.2021 and letter no.
10875(30) dated 18.07.2022.

Sir/Madam,

In inviting reference to the Court's Letter referred on the above subject, I am directed to say that while considering letter no. N-17/11/2021-NM (6073) dated 16.04.2021 of the Department of Justice, Govt. of India for uploading the required information in the portal of "Average Time Taken for Disposal of Cases", the Hon'ble Court have been pleased to direct to work out the time clock by taking into account the loss of time on account of cease work, Corona affecting Courts' functioning etc.

Therefore, I am directed to request you to furnish revise statistical information relating to "Average Time Taken for Disposal of Cases" for the year 2018, 2019, 2020 & 2021 by adhering to the kind observation of the Hon'ble Court as mentioned above. The said information is to be furnished in the enclosed pro forma both in Excel and PDF format to this Court by 14th of November, 2022 positively through ms.scms-ohc@gov.in for placing the same before the Hon'ble SCMS Committee.

Kindly treat is as MOST URGENT.

YOURS FAITHFULLY,
PRAVAKAR GANTHIA
MEMBER SECRETARY, SCMS (I/C)

Name of the Judgeship :						
CASE TYPES	SL. NO.	SUBJECT	YEAR			
			2018	2019	2020	2021
CIVIL CASES	1	No. of pending cases as on 1 st January				
	2	Total Number of Civil Cases Disposed				
	3	Average time taken for disposal during the year= (Sum of time taken for disposal of each case in a year*) Divided by (Total Number of cases disposed of in that year) (to be furnished in Days)				
	4	Maximum Time taken for disposal (to be furnished in days)				
	5	Minimum Time Taken for disposal (to be furnished in Days*)				
	6	No. of pending Cases as on 31 st December				
CRIMINAL CASES	1	No. of pending cases as on 1 st January				
	2	Total Number of Civil Cases Disposed				
	3	Average time taken for disposal during the year= (Sum of time taken for disposal of each case in a year*) Divided by (Total Number of cases disposed of in that year) (to be furnished in Days)				
	4	Maximum Time taken for disposal (to be furnished in days)				
	5	Minimum Time Taken for disposal (to be furnished in Days*)				
	6	No. of pending Cases as on 31 st December				
TOTAL (CIVIL & CRIMINAL)	1	No. of pending cases as on 1 st January				
	2	No. of pending cases as on 31 st December				
	3	Total Number of Civil Cases Disposed				
	4	# Average Time taken for Disposal of cases (to be furnished in Days*)				

N.B-* Excluding loss of working days on account of Cease work, Covid-19 restriction and other reasons.

Other reasons may include the period when the record was placed in dormant file etc.

Average time taken for disposal of cases (to be furnished days) =

(Time taken for disposal of all civil cases (*) + Time taken for disposal of all criminal cases (*)/ (Total number of cases (civil+ criminal) disposed of)

No. RJ 166(30) / Dated: 30.11.2022

From

Suman Kumar Mishra,
Registrar (Judicial)

To

The District judges(All)

Sub: Issuance of instructions pursuant to Order No. 11 dated 05.08. 2022 passed by the Hon'ble Court in BLAPL No. 1670 of 2022

Sir,

It has come to the notice of the Hon'ble Court that requests made by a criminal Court to another Criminal Court to spare an accused is not being attended with due seriousness, promptitude and sensitivity.

Having expressed concern over the same the Hon'ble Court, by Order No. 11 dated 05.08.2022 in BLAPL No. 1670 of 2022, has observed that the requests made by a Court to another Court to spare an accused should be dealt with promptly and the requesting Court should be informed of the decision without any delay.

The order No.11 dated 05.08.2022 in BLAPL No. 1670 of 2022 is enclosed herewith for circulation among all the Courts within your Judgeship. All the Courts within your Judgeship may be impressed upon to promptly attend to the requests of other Courts for sparing of accused persons in criminal cases and the requesting Courts should be informed of the decision whether the accused can be spared or not, without any delay.

Yours faithfully
SUMAN KUMAR MISHRA
REGISTRAR (JUDICIAL)

No. 18911(30) Dated: 05.12.2022

From,

Pratap Kumar Patra,
Registrar General

To

The District & Sessions Judge,(All)

Sub: Judgment dtd. 07.11.2022 passed in Criminal Appeal No. 1926 of 2022 arising out of SLP (Crl.) No.9288 of 2022 (P. Ponnusamy Vs. The State of Tamil Nadu)

Sir,

I am directed to forward herewith a copy of Judgment dtd. 07.11.2022 passed in Criminal Appeal No. 1926 of 2022 arising out of SLP (Crl.) No.9288 of 2022 (P. Ponnusamy Vs. The State of Tamil Nadu) by the Hon'ble Supreme Court of India for your information and circulation of the same amongst the Judicial Officers working under your control for their guidance.

In view of the abovementioned Judgment, I am further directed to request you to follow the instructions imparted earlier vide Court's Circular Order No.4 of 2021 Dtd. 05.11.2021 (Criminal, Volume-I, 1977 Edition) and Circular Order No. 8 of 2022 Dtd. 23.06.2022 (Criminal, Volume-I, 1977 Edition) scrupulously.

Yours faithfully,
PRATAP KUMAR PATRA
REGISTRAR GENERAL

No. 20068(30) Dated 22.12 2022

From:

Shri Akhil Kumar Paschimakabat,
Registrar (Administration)I/C.

To,

The District & Sessions Judges(All).

Sub: Specifying one Court each in the Cadre of J.M.F.C., A.C.J.M. or C.JM and the Court of Sessions in each District as well as nominating the Nodal Officers for monitoring the exercise in compliance of the Order dated 14.09.2022 passed by the Hon'ble Supreme Court of India in Suo Moto Writ Petition (Criminal) No.4 of 2021.

Sir,

In enclosing herewith the copy of Order dated 14.09.2022 passed by the Hon'ble Supreme Court of India in Suo Moto Writ Petition (Criminal) No.4 of 2021 and in obedience of the orders made therein, I am directed to inform that the Court have been pleased to resolve that the Courts of all the 30 S.D.J.Ms, 30 C.J.Ms and 30 District & Sessions Judges functioning at the District Headquarters of the State be selected as Pilot Courts for disposal of criminal cases by resorting to the triple method of plea bargaining, compounding of offences and under the Probation of Offenders Act. 1958

The Court have further been pleased to nominate all the 30 District & Sessions Judges of the State as Nodal Officers to carry out monitoring of the disposal of criminal cases resorting to the aforesaid triple methods

I am therefore directed to request you to bring this to the notice of the Presiding Officers of the concerned Courts so as to achieve the objective of the Order of the Hon'ble Apex Court.

Yours faithfully,

AKHIL KUMAR PASCHIMAKABAT,
REGISTRAR (ADMINISTRATION)I/C.

No. 2761(30)/ Dtd. 16.02.2023

From

Shri Pravakar Ganthia , O.S.J.S.
Registrar (Inspection)

To

The District & Sessions Judge(All)

Sub: Compliance of order dated 31.01.2023 passed by Hon'ble Supreme Court of India in SMWP (Criminal) No. 4/2021.

Sir/Madam,

I am directed to send here with copy of order dated 31.01.2023 passed by Hon'ble Supreme Court of India in SMWP (Criminal) No. 4/2021 for necessary compliance. The orders which require compliance are reproduced below.

XXX XXX XXX XXX

"5) *In Cases where the undertrial or convict requests that he can furnish bail bond or sureties once released, then in an appropriate case, the Court may consider granting temporary bail for a specified period to the accused so that he can furnish bail bond or sureties.*

6) *If the bail bonds are not furnished within one month from the date of grant bail, the concerned Court may suo moto take up the case and consider whether the conditions of bail require modification/relaxation.*

7) *One of the reasons which delays the release of the accused/convict is the insistence upon local surety. It is suggested that in such cases, the Courts may not impose the condition of local surety"*

XXX XXX XXX XXX

This is for favour of information and circulation among the Judicial Officers of your Judgeship for necessary compliance.

Yours faithfully,
PRAVAKAR GANTHIA
REGISTRAR (INSPECTION)

No. 5261(30)/Dtd.29.03.2023

From

Shri A.K. Paschimakabat
Registrar (Vigilance)

To

The District & Sessions Judge,(All)

Sub: Transfer of bail application filed under Section 439 Cr.P.C. to other Sessions Courts by the Sessions Court (I/c).

Sir/ Madam,

I am directed to say that during the recently concluded District Judges' Conference, 2023 held from 10th to 12th February, 2023 at the Odisha Judicial Academy, Cuttack, the subject "Transfer of bail application filed under Section 439 Cr.P.C. to other Sessions Courts by the Sessions Court (I/c)" was discussed under item No.2 (a) of Session-III on 11.02.2023.

It was observed therein that difficulties are being experienced in transfer of the bail applications filed under section 439 of Cr.P.C. by the in-charge Sessions Judge in absence of the Sessions Judge.

On detailed deliberation, it was resolved that in absence of the Sessions Judge, the in-charge Sessions Judge can transfer bail applications filed under Sections 438 and 439 of Cr.P.C. to any other Additional Sessions Judge of the station, if required. Further, in appropriate cases bail applications filed under section 439 of Cr.P.C. can be transferred by the in-charge Sessions Judge to the Assistant Sessions Judge, if required.

The Court after careful consideration of the matter, have been pleased to concur with the aforesaid resolutions and direct you to scrupulously follow the instructions contained in the aforementioned resolutions and take necessary action at your end.

I am, therefore, directed to request that the above instructions of the Court may be brought to the notice of all the Judicial Officers working in your Judgeship for their information and guidance.

Yours faithfully,
A.K. PASCHIMAKABAT
REGISTRAR (VIGILANCE)

No.5270(30)/ Dtd. 29.03.2023

From

Shri A.K. Paschimakabat
Registrar (Vigilance)

To

The District & Sessions Judge,(All)

Sub:- Monthly visit of the jails situated at the outlying stations by the Additional District Judges.

Sir/ Madam,

I am directed to say that during the recently concluded District Judges' Conference, 2023 held from 10th to 12th February, 2023 at the Odisha Judicial Academy, Cuttack, the subject "Monthly visit of the jails situated at the outlying stations" was discussed under item No.2 (b) of Sessions-III on 11.02.2023.

It was observed therein that the District Judges are often hard pressed with their judicial work as well as the administrative work assigned to them.

Therefore, in partial modification of the directions made in letter No.174 (14) Dtd. 08.01.2008, it was resolved that the Additional District Judges of the outlying stations or where there are more than one Additional District Judge in the station, the 1st Additional District Judge shall make monthly visit to the jails within their jurisdiction and forward the jail visit report to the High Court through the District Judge. However, the above authorization shall not restrict the general power of surprise visit of the District Judge to the Jails situated under the jurisdiction of outlying stations.

The Court after careful consideration of the matter, have been pleased to concur with the aforesaid resolutions and direct you to scrupulously follow the instructions contained in the aforementioned resolutions and take necessary action at your end.

I am, therefore, to request that the above instructions of the Court may be brought to the notice of all the Judicial Officers working in your Judgeship for their information and guidance.

Yours faithfully,
A.K. PASCHIMAKABAT
REGISTRAR (VIGILANCE)

No.5274(30)/ Dtd. 29.03.2023

From

Shri A.K. Paschimakabat
Registrar (Vigilance)

To

The District & Sessions Judge,(All)

Sub:- Disposal of applications under Section 438 of Cr.P.C.

Sir/Madam,

I am directed to say that during the recently concluded District Judges' Conference, 2023 held from 10th to 12th February, 2023 at the Odisha Judicial Academy, Cuttack, the subject "Transfer of bail application filed under Section 439 Cr.P.C. to other Sessions Courts by the Sessions Court (I/c)" was discussed under item No.2 (a) of Session-III on 11.02.2023.

It was observed therein that the Sessions Judges and Additional Sessions Judges are disposing of the applications under Section 438 Cr.P.C in a very casual fashion without exercising the jurisdiction so vested lest such disposal would invite allegations and administrative action from High Court. This is a matter of concern for the High Court.

On detailed deliberation, it was resolved to impress upon the Sessions Judges and Additional Sessions Judges of the State to deal with applications under Section 438 of Cr.P.C. in accordance with the jurisdiction vested with them, without any such apprehension.

The Court after careful consideration of the matter, have been pleased to concur with the aforesaid resolutions and direct you to scrupulously follow the instructions contained in the aforementioned resolutions and take necessary action at your end.

I am, therefore, to request that the above instructions of the Court may be brought to the notice of all the Judicial Officers working in your Judgeship for their information and guidance.

Yours faithfully,
A.K. PASCHIMAKABAT
REGISTRAR (VIGILANCE)

No. 5774 Dated 12.04.2023

From

Sri Pravakar Ganthia
Registrar (Inspection)

To

The Presiding Officer,
State Education Tribunal, Odisha, Bhubaneswar.

Sub: Prioritize old cases, Execution and GIA cases for expeditious disposal and disposal of 5 to 6 appeals every week.

Sir/Madam,

In inviting a kind reference to the subject cited above, I am directed to say that during interaction by the High Court in virtual mode with the Tribunals and the Commissioner of Endowments, Odisha for the District Judges' Conference-2023 on 31.01.2023 at 9.30 AM, discussion was made on the following Agenda.

1. Pendency and disposal of cases.
2. Feasibility of taking up trials on virtual mode.
3. Progress made on the instructions imparted in the District Judges' Conference, 2022.

After detailed deliberation, it was resolved as follows:

3. (i) The P.O. should prioritize the old cases for expeditious disposal.
- (ii) The P.O. should target disposal of 5 to 6 appeals every week
- (iii) The Execution and GIA cases are to be prioritized for expeditious disposal.

Further, you are requested to submit lists of LCRs pending in the High Court, if any, within one month for return of the LCRs after digitization.

The Court after careful consideration of the matter have been pleased to concur with the aforesaid resolutions and direct you to scrupulously follow the above instructions and take necessary action at your end.

Yours faithfully,
PRAVAKAR GANTHIA
REGISTRAR (INSPECTION)

No. 5778 Dated 12.04.2023

From

Sri Pravakar Ganthia
Registrar (Inspection)

To

The Chairman, Odisha Sales Tax Tribunal, Cuttack.

Sub: Instructions in pursuance of the Resolution of District Judges' Conference, 2023.

Sir,

In inviting a kind reference to the subject cited above, I am directed to say that during interaction by the High Court in virtual mode with the Tribunals and the Commissioner of Endowments, Odisha for the District Judges' Conference-2023 on 31.01.2023 at 9.30 AM, discussion was made on the following Agenda.

1. Pendency and disposal of cases.
2. Feasibility of taking up trials on virtual mode.
3. Progress made on the instructions imparted in the District Judges' Conference, 2022.

After detailed deliberation, it was resolved as follows:

(2) (i) The Chairman is instructed to study the files to know the exact reason of delay in disposal of the cases.

(ii) The Chairman has to prioritize the year old cases for expeditious disposal.

(iii) A plan of action has to be devised for disposal of the year old cases.

(iv) The cases are to be classified on the basis of monetary value.

(v) The Chairman has to ensure sitting of full bench matters regularly, preferably 2 to 3 sittings a week for substantial reduction of pendency.

(vi) If parties are not interested in pursuing the cases, the matters can be disposed of in accordance with law.

(vii) The Chairman shall place proposal before the Principal Secretary, Finance Department of the State for digitization of records.

Further, you are requested to submit lists of LCRs pending in the High Court, if any, within one month for return of the LCRs after digitization.

The Court after careful consideration of the matter have been pleased to concur with the aforesaid resolutions and direct you to scrupulously follow the above instructions and take necessary action at your end.

Yours faithfully,
PRAVAKAR GANTHIA
REGISTRAR (INSPECTION)

No. 5781 (3) Dated 12.04.2023

From

Sri Pravakar Ganthia
Registrar (Inspection)

To

The Members, 2nd MACT, Cuttack, Berhampur & Sambalpur.

Sub: Instructions in pursuance of the Resolution of District Judges' Conference, 2023.

Sir,

In inviting a kind reference to the subject cited above, I am directed to say that during interaction by the High Court in virtual mode with the Tribunals and the Commissioner of Endowments, Odisha for the District Judges' Conference-2023 on 31.01.2023 at 9.30 AM, discussion was made on the following Agenda.

1. Pendency and disposal of cases.
2. Feasibility of taking up trials on virtual mode.
3. Progress made on the instructions imparted in the District Judges' Conference, 2022.

After detailed deliberation, it was resolved as follows:

4. (i) The MAC Tribunals should resort to ADR mechanism besides Lok Adalat for better disposal.
(ii) The MAC Tribunal should go for virtual hearing for expeditious disposal of cases.
(iii) The MAC Tribunals shall place proposal before the Commerce & Transport Department of the State for digitization of records
(iv) The MAC Tribunals shall move the Principal Secretary, Commerce and Transport Department, Government of Odisha to fill up the existing vacancies of ministerial, secretarial and Group-D posts at the earliest under intimation to the High Court.

Further, you are requested to submit lists of LCRs pending in the High Court, if any, within one month for return of the LCRs after digitization.

The Court after careful consideration of the matter have been pleased to concur with the aforesaid resolutions and direct you scrupulously follow the above instructions and take necessary action at your end.

Yours faithfully,
PRAVAKAR GANTHIA
REGISTRAR (INSPECTION)

Letter No. 5785(14) Dated 12.04.2023

From

Sri Pravakar Ganthia
Registrar (Inspection)

To

1. The Special Judge (Vigilance).....All
2. The Special Judge, Special Courts, Cuttack and Bhubaneswar
3. The Special Judge (CBI) Court No. 1, Bhubaneswar

Sub: Instructions in pursuance of the Resolution of District Judges' Conference, 2023.

Sir/Madam,

In inviting a kind reference to the subject cited above, I am directed to say that during interaction by the High Court in Virtual mode with the Special judges (Vigilance), Special Judge, Special Courts, Special Judge (CBI) Court No. 1 and Director-cum-A.D.G. of Police (Vigilance) and Legal Advisor (State Vigilance Organization) for the District Judges' Conference-2023 on 30.01.2023 at 09.30 AM., discussions were made on the following Agenda.

1. Pendency and disposal of cases.
2. Exploring the feasibility of taking up trials on virtual mode.
3. Putting vigilance cases in fast track.
4. Progress made on the instructions imparted in the District Judges' Conference, 2022.

After detailed deliberation, it was resolved inter alia as follows:

xxx xxx xxx xxx

5. The Special Judges (Vigilance) are impressed upon to adhere to the provisions of section 294 (3) of Cr. P.C. for admission of documents.

6. The Special Judges (Vigilance) are impressed upon to strictly follow the provisions envisaged in the 2nd proviso to section 207 (v) of Cr. P.C. as regards inspection of voluminous documents by the accused personally or through pleader in Court instead of furnishing the accused with a copy thereof.
7. To avoid lingering of vigilance cases for want of death report of accused, the Special Judges (Vigilance) are instructed to ascertain his status from the Directorate of Treasuries and Inspection, Odisha in addition to the prevailing practice of calling for report from the concerned police station.

xxx

xxx

xxx

xxx

10. Priority shall be given for disposal of the year old vigilance cases.

The Court after careful consideration of the matter have been pleased to concur with the aforesaid resolutions and direct you to scrupulously follow the above instructions and take necessary action at your end.

Yours faithfully,
PRAVAKAR GANTHIA
REGISTRAR (INSPECTION)

571

No. 5789 Dated 12.04.2023

From

Sri Pravakar Ganthia
Registrar (Inspection)

To

The Judge, Family Courts..... All

Sub: Instructions in pursuance of the Resolution of District Judges' Conference, 2023.

Sir,

In inviting a kind reference to the subject cited above, I am directed to say that during interaction by the High Court in virtual mode the Judges, Family Courts for the District Judges' Conference- 2023 on 30.01.2023 at 09.30 AM, discussion was made on the following Agenda.

1. Pendency and disposal of cases.
2. Adoption related cases.
3. Functioning of the Principal Counsellors & Counsellors.
4. Progress made on the instructions imparted in the District Judges' Conference, 2022.

After detailed deliberation, it was resolved inter alia as follows:

1. The Judges of Family Courts are instructed to prioritize mediation and conciliation for settlement of disputes irrespective of the stage of the proceedings.
2. The mediation and conciliation shall also be taken up through virtual mode, wherever required.
3. Congenial atmosphere be ensured during the process of settlement of family disputes through conciliation and mediation.

XXX

XXX

XXX

XXX

5. Old cases shall be taken up on board on priority basis.

6. Grant of liberal adjournments shall be avoided.
7. Disposal of cases under Section 13-B of the Hindu Marriage Act, 1955 shall be treated as uncontested disposal.
8. The mandate of section 21-B of the Hindu Marriage Act, 1955 should be adhered to regarding day trial and disposal of cases within 6 months from the date of service of notice on the respondent.
9. Disposal of execution cases be expedited and in appropriate cases the provision envisaged under Section 10 (3) of the Family Courts Act, 1984 should be adhered to.
10. Day today progress of every sitting of a case sent for conciliation or mediation be monitored and the timely submission of the report of the conciliator/mediator should be ensured.

XXX

XXX

XXX

XXX

12. The Judges of Family Court shall ensure proper facilities in their Courts for sitting of the families and children visiting their courts.

The Court after careful consideration of the matter have been pleased to concur with the aforesaid resolutions and direct you to scrupulously follow the above instructions and take necessary action at your end.

Yours faithfully,
PRAVAKAR GANTHIA
REGISTRAR (INSPECTION)

No. 5792 Dated 12.04.2023

From

Sri Pravakar Ganthia
Registrar (Inspection)

To

The Commissioner of Endowments, Bhubaneswar

Sub: Conducting hybrid hearing of cases and making plan for their early disposal.

Sir,

In inviting a kind reference to the subject cited above. I am directed to say that during interaction by the High Court in virtual mode with the Tribunals and the Commissioner of Endowments, Odisha for the District Judges' Conference- 2023 on 31.01.2023 at 09.30 AM, discussion was made on the following Agenda.

1. Pendency and disposal of cases.
2. Feasibility of taking up trials on virtual mode.
3. Progress made on the instructions imparted in the District Judges' Conference, 2022.

After detailed deliberation, it was resolved that:

- i. The Commissioner shall place proposal to the Government in law Department for facilities to conduct hybrid hearing of cases.
- ii. The Commissioner shall categorize the cases and make plan for their early disposal by enhancing the number of Court sitting.

Further, you are requested to submit lists of LCRs pending in the High Court, if any, within one month for return of the LCRs after digitization.

The Court after careful consideration of the matter have been pleased to concur with the aforesaid resolutions and direct you to scrupulously follow the above instructions and take necessary action at your end.

Yours faithfully,
PRAVAKAR GANTHIA
REGISTRAR (INSPECTION)

No. 5804(2) Dated 12.04.2023

From

Sri Pravakar Ganthia
Registrar (Inspection)

To

The Presiding Officers,
Industrial Tribunal, Bhubaneswar & Rourkela.

Sub: Prioritize the year old cases for expeditious disposal.

Sir,

In inviting a kind reference to the subject cited above, I am directed to say that during interaction by the High Court in virtual mode with the Tribunals and the Commissioner of Endowments, Odisha for the District Judges' Conference-2023 on 31.01.2023 at 09.30 am, discussion was made on the following Agenda.

1. Pendency and disposal of cases.
2. Feasibility of taking up trial on virtual mode.
3. Progress made on the instructions imparted in the District Judges' Conference, 2022.

After detailed deliberation, it was resolved to prioritize the year old cases for expeditious disposal and to submit lists of LCRs pending in the High Court, if any, within one month for return of the LCRs after digitization.

The Court after careful consideration of the matter have been pleased to concur with the aforesaid resolutions and direct you to scrupulously follow the above instructions and take necessary action at your end.

Yours faithfully,
PRAVAKAR GANTHIA

REGISTRAR (INSPECTION)

575

No.5963(30)/ Dtd. 17.04.2023

From

The Secretary I/c,
Juvenile Justice Committee,

To

The District & Session Judge(All)

Sub: Government Calender to be followed by the Juvenile Justice Boards
functioning in the State of the Odisha

Madam/ Sir,

In inviting reference to the subject cited above, I am directed to say that the Hon'ble Juvenile Justice Committee while considering the dilemma regarding following of Govt. Calender or District Court calendar by the Juvenile Justice Boards of the State have been pleased to resolve that the Govt. Calender be followed by the Juvenile Justice Boards in the State.

I am therefore, directed to request you to instruct the Juvenile Justice Boards functioning in your Judgeship to follow the aforesaid direction scrupulously.

Yours faithfully,
ABHILASH SENAPATI
THE SECRETARY I/C,
JUVENILE JUSTICE COMMITTEE.

No. 6320(30). Dated 24.04.2023

From

Pratap Kumar Patra
Registrar General

To

The District & Sessions Judge,.....(All)

Sub: Forwarding the order Dtd. 21.03.2023 passed in M.A. No.2034/2022 in M.A. No. 1849 of 2021 in SLP (Cr.) No. 5191 of 2021 (Satender Kumar Antil Vrs. C.B.I. & Anr) by the Hon'ble Supreme Court of India.

Ref: This Court's Letter No. 15706(30) Dtd. 14.10.2022

Sir,

With reference to Court's letter and subject cited above, I am directed to say that the Hon'ble Supreme Court of India while going through the affidavit filed by this Court in the aforesaid case, have been pleased to observe that there is a disproportionately large number of under trial prisoners unable to comply with bail and possibly some special steps are necessary to tackle this problem. Further, while expressing their concern on compliance of bunch of directions issued earlier in the said case, Hon'ble the Supreme Court of India finds the submission of this Court basing on the information received from different judgship as part compliance of the direction and directed for full compliance of the direction issued earlier in the matter.

In enclosing herewith a copy of the order dated 21st March, 2023 passed in the aforementioned case, I am, therefore, directed to request you to take necessary steps to ensure full compliance of the directions imparted by the Hon'ble Supreme Court of India in Judgment dated 11th July, 2022 in SLP (Cr.) No. 5191 of 2021 (Satender Kumar Antil Vrs. C.B.I. & Anr.) in line with the directions in Arnesh Kumar Vrs. State of Bihar[(2014)8 SCC273], Sidharth Vrs. State of UP[(2021) 1SCC 676] and Bhim Singh Vs UOI [(2015) 13 SCC 605] especially dealing with bail matters under section 440 Cr.P.C. and further to circulate the copy of Order Dtd. 21.03.2023 passed in M.A. No. 2034/2022 in M.A. No. 1849 of 2021 in SLP (Cr.) No. 5191 of 2021 (Satender Kumar Antil Vrs. C.B.I. & Anr.) among all the Judicial Officers working under your control for their information and strict adherence.

Yours faithfully,
PRATAP KUMAR PATRA,
REGISTRAR GENERAL

No. 13300 (30) Dated 18.08.2023

From

Suman Kumar Mishra,
Registrar (Judicial)

To

The District & Sessions Judge.....(All)

Sub: Compliance of order dated 25.07.2023 passed by Hon'ble Supreme Court of India in SMWP (Criminal) No. 4/2021.

Sir/Madam,

I am directed to send here with copy of order dated 25.07.2023 passed in Suo Moto Writ Petition (Criminal) No. 4/2021 by Hon'ble Supreme Court of India for necessary compliance. The direction which requires compliance is reproduced below.

xxx xxx xxx xxx

"We do believe that insofar as first direction is concerned, every endeavor must be made by the concerned Courts that where they grant bail, this must be fruitful as imposition of condition for bail which given the economic and social scenario, prisoner is unable to meet, does not sub serve the purpose and thus prompt attention should be given where the order of bail has not resulted in release"

xxx xxx xxx xxx

This is for favour circulation amongst all judicial officers under your jurisdiction for information and necessary action.

Yours faithfully,
SUMAN KUMAR MISHRA
REGISTRAR (JUDICIAL)

578

NO.6438(30)/Dtd.25.04.2023

From

Shri S.K. Mishra
Registrar (Judicial)

To

The District & Sessions Judge,.....(All)

Sub: Orissa High Court Judgement Dtd.27.02.2023 passed in W.P. (C) No.17358 of 2022.

Sir,

I am directed to forward herewith a copy of the Judgement Dtd. 27.02.2023 passed in W.P.(C) No.17358 of 2022 (Laxmi Sahu vrs. State of Odisha & Ors.)for your information and communicate the same to all the Judicial Officers functioning within your respective jurisdiction for their information and necessary action..

Yours faithfully,
S.K.MISHRA
REGISTRAR (JUDICIAL)

No. 10440(30)/Dtd 07.07.2023

From,

Shri Pravakar Ganthia, OSJS
Member Secretary, SCMS i/c

To

The District & Sessions Judge,.....(All)

Sub: Supply of annual information relating to "Average Time Taken for Disposal of cases".

Madam/Sir,

I am to intimate that the matter regarding uploading of data in "Average Time Taken for Disposal of cases" portal developed by Ministry of Law and Justice, Govt. of India was discussed in the meeting of the Hon'ble SCMS Committee held on 04.07.2023.

The Hon'ble Committee resolved that the District Judges of the State may be instructed to adhere to Court's Letter No. 16540 (30) dated 31.10.2022 and Letter No. 19917 (30) dated 21.12.2022 for submission of data including data of the Family Courts, M.A.C. Tribunals and all other designated Courts in their judgements by 5th of January every year.

In enclosing herewith the above mentioned letters, I request you to follow the above observation of the Court while preparing the Average Time Taken for Disposal of Cases.

YOURS FAITHFULLY,
PRAVAKAR GANTHIA
MEMBER SECRETARY, SCMS (I/C)

580

No.13132(30) Dtd 16.08.2023

From

Pratap Kumar Patra,
Registrar General

To

The District & Sessions Judge,.....(All)

Sub: Implementation of judgment dated 31st July, 2023 passed by Hon'ble the Supreme Court of India in Criminal Appeal No(s). 2207/2023 arising out of Special Leave Petition (Crl.) No.3433 of 2023 (Md. Asfak Alam Vrs.The State of Jharkhand & Anr.).

Ref: Court's letter No.6156(30) dtd.16.07.2014.

Sir,

In inviting reference to Court's letter and subject cited above, I am directed to forward herewith a copy of the judgment dated.31st July, 2023 passed by Hon'ble the Supreme Court of India in Criminal Appeal No(s). 2207/2023 arising out of Special Leave Petition (Crl.) No.3433 of 2023 (Md. Asfak Alam Vrs The State of Jharkhand & Anr.) for your information and request you to circulate the same amongst all Judicial Officers working under your control for their Information and guidance.

Yours faithfully
PRATAP KUMAR PATRA
REGISTRAR GENERAL

581

No.15262(30) / Dated.26.09.2023

From

Pratap Kumar Patra,
Registrar General

To

The District & Sessions Judge,..... (All)

Sub:- Judgment dated 4th September, 2023 passed in Criminal Appeal Nos.1271-1272 of 2018 (Munna Pandey Vrs. State of Bihar) by Hon'ble the Supreme Court of India.

Sir,

I am directed to forward herewith a copy of the judgment dated 4th September, 2023 passed by Hon'ble the Supreme Court of India in Criminal Appeal Nos.1271-1272 of 2018 (Munna Pandey Vrs. State of Bihar) for your information and request you to circulate the same amongst all the Trial Courts functioning within your jurisdiction for their information and strict adherence.

Yours faithfully,

P.K. PATRA

REGISTRAR GENERAL

No. 15725/ Dated.05.10.2023

From

Suman Kumar Mishra,
Registrar (Judicial)

To

The District & Sessions Judge,..... (All)

Sub: Order dated 18.01.2023 passed in CRLREV No.422 of 2022
(Yudhistir Tanty Vrs. State of Odisha).

Sir,

I am directed to forward herewith a copy of the Order dated 18.01.2023 passed in CRLREV No.422 of 2022 (Yudhistir Tanty Vrs. State of Odisha) by the High Court of Orissa for your information with a request to circulate the same amongst all the Criminal Courts functioning in your judgeship to ensure reflection of the result of appeals in Form No. R-5 (Register of Conviction) of the G.R.C.O. (Cr.), Vol-II (1977 Edition) and to issue recommitment warrants against the convicts with due promptitude.

Yours faithfully,

Suman Kumar Mishra
REGISTRAR (JUDICIAL)

Encl:- As above.

583

No. 15726/ Dated.05.10.2023

From

Suman Kumar Mishra,
Registrar (Judicial)

To

The District & Sessions Judge,..... (All)

Sub: Judgment dated 18.01.2023 passed in JCRLA No.21/2019 (Guru Charan Mahanta Vrs. State of Odisha).

Sir,

I am directed to forward herewith a copy of the judgment dated 18.01.2023 passed in JCRLA No.21/2019 (Guru Charan Mahanta Vrs. State of Odisha) by the High Court of Orissa for your information with a request to implement the observations made in paragraph-11 of the said Judgment scrupulously.

Yours faithfully,
Suman Kumar Mishra
REGISTRAR (JUDICIAL)

Encl:- As above.

