

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7569 of 2020

Ganeswar Behera		Petitioner
	Mr. Manoj Kumar Panda, Advocate	
	-versus-	
State of Odisha and another		Opp. Parties
	Mr. M. K. Mohanty, Additional Standing Counsel	

**CORAM:
JUSTICE S. K. PANIGRAHI**

Order No. **ORDER**
09.08.2021

- 08.** 1. This matter is taken up by video conferencing mode.
2. Pursuant to the order dated 02.08.2021 passed by this Court, Mr. Rajesh Kumar, Director of S.F.S.L., Bhubaneswar is present in Court today through virtual mode and answered to the queries made by this Court. The gist of the submissions apropos the earlier order which runs as follows:

In essence, the Director, S.F.S.L. submits that the S.F.S.L. faces problems with respect to shortage of man power. As per protocol, seven to fifteen days are required to prepare a DNA test report. However, due to shortage of manpower and huge Pendency of cases at the S.F.S.L, Bhubaneswar, it often fails to conduct as per the time limit prescribed under the testing protocol. He further suggests that if the issue of shortage of the Personnel is addressed rightly, the D.N.A test result could be produced within the time

frame. Therefore, the D.N.A test report in question cannot be made available prior to 16th August.

3. The entire judicial system of justice has always had immense faith in forensic science which forms an integral part of the justice delivery system. However, it is unfortunate that most of our forensic laboratories lack basic infrastructure and personnel. Despite the spike in the use of forensic science, the backlog resulting in delay in submitting the test report due to the lack of adequate manpower poses a significant challenge to the administration of justice. It is a humongous challenge, but, definitely, not unsurmountable. A few commissions and committees were set up by the Government of India in the past for police reforms which have also underlined the importance of scientific investigation of crime and forensics. These commissions and committees submitted their reports along with recommendations on forensics, but the recommendations are still crying for implementation. It is not out of place to mention that National Police Commission report (1977–81); Ribeiro Committee Report (1998–99); Padmanabhaiah Committee Report (2000) and Soli Sorabjee Committee Report (2005) have unequivocally echoed the importance of Forensic science as a powerful weapon in the armoury of administration of justice.

4. The Hon'ble Supreme Court in *Dharam Deo Yadav v. State of U.P.*¹ was pleased to hold that:

“27. The crime scene has to be scientifically dealt with without any error. In criminal cases, especially based on circumstantial evidence, forensic science plays a pivotal role, which may assist in establishing the element of crime, identifying the suspect, ascertaining the guilt or innocence of the accused.

30. The criminal justice system in this country is at crossroads. Many a times, reliable, trustworthy, credible witnesses to the crime seldom come forward to depose before the court and even the hardened criminals get away from the clutches of law. Even the reliable witnesses for the prosecution turn hostile due to intimidation, fear and host of other reasons. The investigating agency has, therefore, to look for other ways and means to improve the quality of investigation, which can only be through the collection of scientific evidence. In this age of science, we have to build legal foundations that are sound in science as well as in law. Practices and principles that served in the past, now people think, must give way to innovative and creative methods, if we want to save our criminal justice system. Emerging new types of crimes and their level of sophistication, the traditional methods and tools have become outdated, hence the necessity to strengthen the forensic science for crime detection. Oral evidence depends on several facts, like power of observation, humiliation, external influence, forgetfulness, etc. whereas forensic evidence is free from those infirmities. Judiciary should also be equipped to understand and deal with

¹(2014) 5 SCC 509

such scientific materials. Constant interaction of Judges with scientists, engineers would promote and widen their knowledge to deal with such scientific evidence and to effectively deal with criminal cases based on scientific evidence.”

5. The Hon’ble Supreme Court in ***Manohar Lal Sharma v. Union of India***² has succinctly observed that fairness in investigation is precursor to fair trial. Scientific aids, especially forensic tools enhance transparency, fidelity and accuracy to brace fairness in administration of justice. The aim of investigation is ultimately to search for truth and to bring offenders before law. Blending of science with traditional criminal investigation techniques offers new horizons of efficiency in criminal investigation, which reduces dependence upon informers and custodial interrogation and concentrates upon skilled scanning of the crime scene for collection of physical evidence.

6. The work force strength of forensic scientists is negligible in comparison to the present workload of crime cases flooding in the Forensic Science Laboratories in India. As per the Bureau of Police Research and Development (BPR&D) norms of 1980, later revised by the Directorate of Forensic Sciences in the years 2000 & 2005, the workload is 4–5 times in the disciplines like DNA, Toxicology, Biology, and Document Examination & Cyber Forensics. About 40% of the posts of scientists are vacant in Forensic

²(2014) 2SCC 532

Laboratories, which need the immediate attention of the State Governments.

7. It has been brought to the knowledge of this Court that in the State of Odisha itself, 579 cases pertaining to DNA tests are pending with the State Forensic Science Laboratory, Bhubaneswar which is manned by only two Scientific Officers and two Assistant Scientific Officers. It has also been stated that proposals have been given to the Government to appoint two Additional Directors, ten Scientific Officers seven Assistant Scientific Officers at the earliest so that the burgeoning pendency of cases can be tackled in time. It is unfortunate that the State Government has not given priority to the issue as it deserves. The issue of strengthening the Regional Forensic laboratories located in different parts of state also deserves special attention in order to decongest the case loads of the State Forensic Science Laboratory, Bhubaneswar.

8. In view of such discouraging trends as emerged from the deliberations held between the Director of S.F.S.L, Bhubaneswar, learned counsel for the State and the learned counsel for the petitioner, this Court deems it appropriate and proper that the instant issue warrants immediate attention of the State Government and it is expedient on the part of the concerned department of the State to take immediate steps to ensure deployment of adequate manpower/technical personnel which will go a long

way in shortening the time period for conducting such tests as the S.F.S.L. is required to undertake.

9. In view of the above, this Court requests the Chief Secretary and Home Secretary, Government of Odisha to look into the pending issue of inadequate manpower of the S.F.S.L., Bhubaneswar and other regional centres with utmost urgency and to take stringent measures to ensure that these tests as are requisitioned from time to time by various courts are done within the time prescribed under the protocol so that the Courts, the prosecutors, and litigants in general would not have to wait for the scientific reports for months together. Such delay is an affront to the criminal justice system and adds to the inefficiency of the system.

10. List this matter on 19th August 2021. The personal appearance of the Director of S.F.S.L. Bhubaneswar stands dispensed with. This Court records its appreciation for the Director, SFSL for sharing valuable inputs for holistic understanding of the issue at hand.

11. Issue certified copies of this order as per Rules and serve copies of this order to Ld. Advocate General, Chief Secretary and Home Secretary, Government of Odisha.

(S. K. Panigrahi)
Judge