

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 308 of 2022

Shyam Kumar Agrawal

.....

Petitioner

*Mr. S.S. Rao, Advocate on behalf of
Mr. H.S. Mishra, Advocate*

Vs.

**Collector-cum-Chairman,
District Selection Committee,
Balangir & Ors**

.....

Opposite parties

*Mr.P.P. Mohanty, AGA
Mr. S.K. Mishra, Advocate (O.P.2)
Mr. D. Mohapatra, Advocate
(for intervenor)*

CORAM:

DR. JUSTICE B.R. SARANGI

Mr. JUSTICE SANJAY KUMAR MISHRA

ORDER

28.06.2022

Order No.

04

This matter is taken up through hybrid mode.

2. Heard.

3. The Petitioner in this writ petition seeks to quash the order dated 22.12.2020 under Annexure-5 and to direct the Opposite Parties to permit the Petitioner to participate in the financial bid, which may be considered by the duly constituted District Selection Committee.

4. Learned Counsel for the Petitioner emphatically contended that the District Tender Committee has not been constituted in consonance with the letter dated 03.03.2021 in Annexure-3 series issued by the Odisha State Civil Supplies Corporation Ltd., wherein it has been stipulated that the Collector & District Magistrate will be the Chairman, District Labour Officer/Assistant Labour Officer, District Social Welfare Officer, Regional Transport Officer will be the members and C/CSO-cum-District Manager, OSCSC Ltd. will be the Member-Convener. It was also stipulated that the Collector may

nominate any other Officer as member of the Committee, as she/he thinks fit. Pursuant to such letter issued by the Odisha State Civil Supplies Corporation Ltd., the District Tender Committee of Balangir district was constituted, wherein the Collector & District Magistrate was taken in as the Chairman, Sub-Collector, Balangir, District Labour Officer/ Asst. Labour Officer, District Social Welfare Officer and Regional Transport Officer were taken as Members and C/CSO-cum-District Manager as Member convener. The proceeding of opening of Technical bid for selection and engagement of Level II Transport Contractor for transportation of Food grains from RRC-cum-DSC to PDS Retail points of Balangir District vide Annexure-5 indicates that the same has been done by CCSO, Balangir, DSWO, Balangir, DLO, Balangir, RTO, Balangir and ADM Balangir. Neither the Collector, Balangir nor his nomine was there in the said committee.

5. The law has been settled in case of *Taylor V. Taylor*, (1875) 1 Ch. D. 426 that “where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.” The said principles have been followed subsequently in *Nazir Ahmed v. King Emperor*, AIR 1936 PC 253, *State of Uttar Pradesh v. Singhara Singh*, AIR 1964 SC 358, *Dhananjay Reddy v. State of Karnataka*, AIR 2001 SC 1512, *Chandra Kishore Jha v. Mahabir Prasad*, AIR 1999 SC 3558, *Gujrat Urja Vikas Nigam Ltd. v. Essar Power Ltd.*, AIR 2008 SC 1921, *Ram Deen Maurya v. State of U.P.*, (2009) 6 SCC 735.

6. In the above view of the matter, the impugned order dated 22.12.2020 under Annexure-5 pertaining to the work in question, is liable to be quashed and is hereby quashed and the matter is remitted

back to the Collector, Bolangir-cum-Chairman District Tender Committee to proceed in consonance with the procedure fixed by the Odisha State Civil Supplies Corporation.

7. With the aforesaid observation/direction, the Writ Petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE

Arun/Banita

