

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8350 of 2016

M/s.India Metals and Ferro Alloys Limited ***Petitioner***

Mr. S.K. Padhi, Senior Advocate

-versus-

State of Odisha and another ***Opposite Parties***
Mr. P.K. Mudili, A.G.A.

**CORAM:
THE CHIEF JUSTICE
JUSTICE B. P. ROUTRAY**

**ORDER
16.05.2022**

Order No.

05.

1. The challenge in the present petition is to the request made by the Opposite Parties-State to the Petitioner to make one time contribution of Rs.2.50 crores per cusec of water allocated to the Industries pursuant to the Resolution dated 18th May, 2015 of the Department of Water Resources, Government of Odisha, towards a Water Conservation Fund (WCF) which was to be utilized for construction of different water conservation projects.

2. As far as the Petitioner is concerned, it was requested to deposit, by a letter dated 22nd July, 2015 a sum of Rs.25.83 crores.

3. Apprehending that this was a coercive measure to involuntarily exact a contribution from the Petitioner to the WFC without the authority of law, the present writ petition was filed in which on 17th May, 2016 an interim order was passed that 'no coercive action shall be taken against the Petitioner in pursuance of the demand notice'. That interim order is continuing till date.

4. The counter affidavit filed on behalf of the Opposite Party explains the rationale behind the creation of the WCF by the aforementioned resolution dated 18th May, 2015 of the Department of the Water Resources. The stand taken in paragraph-16 of the counter affidavit is that 'this is not a tax and is a benevolent contribution sought from the water users industrial and commercial houses for development of water resources of the State and is in no way violative of Article 265 of the Constitution of India'.

5. Indeed the Court is unable to find anything in the reply which suggests that there would be any coercive action taken against the Petitioner for its failure to contribute to the WCF. From the language used in the letter dated 22nd July, 2015 it is plain that it is only a 'request' made by the Opposite Parties to the Petitioner which cannot be characterized as a 'demand', or in the nature of a compulsion exaction of money in the nature of tax.

6. In that view of the matter, none of the directions sought are required to be issued.

7. The interim order stands vacated.

8. The writ petition is disposed of.

9. An urgent certified copy of this order be granted as per rules.

(Dr. S. Muralidhar)
Chief Justice

(B.P. Routray)
Judge