

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.3458 of 2002

*National Thermal Power
Corporation Ltd.*

....

Petitioner(s)
Mr.B.S.Tripathy,
Advocate

-versus-

State of Orissa & Ors.

....

Opp.Party(s)
Mr.S.P.Panda, AGA

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
30.03.2022**

Order No.

4.

1. Heard learned counsel appearing for the parties.
2. Undisputedly, the writ petition involves a challenge to initiation of Certificate Case No.1/95 and the proceeding was taken up involving such initiation. Mr.Tripathy, learned counsel appearing for the petitioner referred to Annexure-A/3 came up by way of counter affidavit involving the proceeding initiated under the provision of Orissa Public Demand Recovery Act, 1962 contends petitioner has already submitted its denial liability application. Mr.Tripathy, learned counsel further brings to the notice of the Court that during pendency of the certificate proceeding involved, there has been also further development in the involvement of the Hon'ble Chief Minister and there has been full deposit of the amount claimed to have been decided dependant on such certificate claim. It is alleged that despite such development, there is no closure of such proceeding which ought to be disposed.
3. Mr.S.P.Panda, learned Additional Government Advocate however seriously objecting to the claim of Mr.Tripathy claims for pendency of the certificate proceeding, dispute if any, should be left

open to be decided by competent authority but considering the denying liability object, if any.

3. Considering the submission of Mr. Tripathy, learned counsel for the petitioner, this Court finds since the proceeding is initiated under the provision of Orissa Public Demand Recovery Act, 1962, petitioner has ample scope to raise such objection even challenge the continuance of posting and further by way of his denying liability claim following the provision at Section 8 of the Orissa Public Demand Recovery Act, 1962. The Certificate Authority is also duty bound to take all such developments into consideration before finalizing the certificate proceeding involves. In the circumstance, this Court finds the writ petition is not entertainable as petitioner has ample scope of bringing such development before the competent authority for its consideration. Consequently, the writ petition stands dismissed as not entertainable at this stage leaving it open to the competent authority to take the final call.

4. As the petitioner was enjoying the interim protection granted by this Court since 20.11.2002, the interim protection shall continue at least for a period of three months within which period the certificate proceeding involved herein at Annexure-A/3 shall be disposed of. Petitioner undertakes to cooperate in the hearing process of the certificate proceeding. Petitioner is directed to appear before the Certificate Authority on 12th April, 2022 and if so advised file additional denying liability application for consideration of the Certificate Authority.

5. The writ petition thus dismissed.

(Biswanath Rath)
Judge