

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 16060 of 2011

B. Murty Pillay

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Petitioner

Mr. K.B. Panda, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite parties

Mr. T. Pattnaik, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. PANIGRAHI

ORDER

10.01.2022

Order No.

4

This matter is taken up through hybrid mode.

2. Heard Mr. P.K. Nayak, learned counsel for the petitioner and Mr. T. Pattnaik, learned Additional Standing Counsel.

3. The petitioner has filed this writ petition challenging the letter dated 12.05.2010 issued by opposite party no.3 imposing penalty for non-completion of tender work in time vide Annexure-7.

4. Mr. P.K. Nayak, learned counsel for the petitioner contended that due to non-completion of work within the time specified, penalty has been imposed. Therefore, the petitioner has approached this Court by filing this writ petition.

5. Mr. T. Pattnaik, learned Additional Standing Counsel contended that as per clause-2-b(i) of the condition of

contract, the petitioner is liable to pay penalty due to non-completion of work in time.

6. Having heard learned counsel for the parties and after going through the records, it appears that Clause-2-b(i) of the condition of contract, which has been placed on record vide Annexure-F/1 to the counter affidavit reads as follows:

“2-b(i) To rescind the contract (of which rescission notice in writing to the contractor under the hand of the Executive Engineer shall be conclusive evidence) 20% of the value of left over work will be realized from the contractor as penalty.”

7. In view of the aforesaid condition of the contract, this Court is not inclined to entertain this writ petition. Accordingly, the writ petition merits no consideration and the same is dismissed.

8. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

Alok

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(**DR. B.R. SARANGI**)
JUDGE

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(**S.K. PANIGRAHI**)
JUDGE

