

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10193 of 2012

M/s. Sainik Mining and Allied Services Ltd. ***Petitioner***

Mr. Sarbabid Pradhan, Adv.

-versus-

The Chairman-cum-Managing Director, Mahanadi Coalfields Ltd. Jagruti Vihar, Burla and Ors. ***Opp. Parties***

Mr. T.K. Pattnaik, Adv.
(For O.Ps.1,3 and 4)

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. PANIGRAHI

ORDER

05.01.2022

Order No.

04.

1. This matter is taken up through hybrid mode.

2. Heard Mr. Sarbabid Pradhan, learned counsel appearing on behalf of Mr. M.S. Rizvi, learned counsel for the petitioner and Mr. T.K. Pattnaik, learned counsel for the opposite party nos.1, 3 and 4.

3. The petitioner has filed this writ petition challenging deduction of penalty from the bills of the petitioner's company for shortfall pursuant to the Office Order dated 17.04.2012 under Annexure-1 passed by the opposite party no.4- the Staff Officer, Mining, Basundhara-Garjanbahal Area, Mahanadi Coalfields Ltd., Basundhara, District- Sundargarh.

4. Mr. S. Pradhan, learned counsel for the petitioner contended that the petitioner is not liable to pay any penalty as per the terms and conditions of the agreement itself. Therefore, the imposition of penalty thereof cannot sustain in the eye of law and, as such, the petitioner has filed application dated 28.10.2011 under Annexure-6 series before the opposite party no.4 for waiver of such penalty, but the same has not yet been considered.

5. Mr. T.K. Pattnaik, learned counsel for the opposite party nos.1, 3 and 4 contended that since the petitioner has already move the authority by filing an appropriate application for waiver of penalty as per Clause-8.3 of the Special Terms and Conditions of Contract, the same shall be considered and disposed of in accordance with law.

6. Having heard learned counsel for the parties and on going through the records, but, however, without expressing any opinion on the merits of the claim of the Petitioner, the writ petition is disposed of directing the opposite party no.4 to consider the application dated 28.1.2011 filed by the petitioner under Annexure-6 series for waiver of the penalty so imposed on it as a complimentary actor for the work of extraction and transfer of surface miner coal at the mines face of Basundhara (West) OCP under NIT No.413 regarding final closure of accounts of NIT-413 and for payment of balance amount. The

entire exercise shall be done within a period of four weeks from the date of communication of this order.

7. With the above observations, the writ petition is disposed of.

8. Urgent certified copy of this order be granted on proper application.

(Dr. B.R. Sarangi)
Judge

(S.K. Panigrahi)
Judge

BJ

