

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(PIL) No. 1523 of 2022

Bichitrananda Sahu & Petitioners
another

Mr. Surya Narayan Patnaik, Advocate

-versus-

State of Odisha & others Opp. Parties

Mr. L. Samantaray, Addl. Govt. Advocate

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M. S. SAHOO

ORDER

04.02.2022

Order No.

- 03.** 1. This matter is taken up through virtual mode.
2. The writ petition has been filed by the petitioners who are the villagers of village Bhimapur, Chhatamundali in the district of Ganjam. The petitioners have stated to be aggrieved by the notice issued by the Tahasildar, Purusottampur inviting application for grant of long term lease for a period of five years for extraction of sand from the bed of river Rushikulya pertaining to Plot No.1320, Khata No.640 area of Ac.10.425 named as "Bhimapur sand Sairat".
3. Earlier, the petitioners had filed W.P.(C) (PIL) No.20037 of 2021 which was disposed of by this Court, vide order dated 16.07.2021 directing the Collector, Ganjam to consider the representations of the

petitioners with regard to the leasing out of sand Sairat.

4. Pursuant to the order of this Court dated 16.07.2021, the matter was taken up by the Collector on 08.12.2021 and the order of the Collector was passed on the self-same date, as at Annexure-2. The order of the Collector dated 08.12.2021 rejecting the representation, is challenged in the present writ petition.

5. The petitioners have raised a grievance regarding the order passed by the Collector refusing to interfere with the auction of sand sairat.

6. On perusal of the notice dated 08.02.2021 inviting bidders to participate for issuance of the lease for the said Bhimapur sand bed (Annexure-3), the rate of royalty per cubic meter (CUM) of sand is Rs.35/- and additional amount payable to the Government is Rs.131/- per cubic meter. The total payable amount to be Rs. 166/- per cubic meter. The minimum guaranteed quantity of sand to be 65,000 CUM per annum, which would lead to a revenue of Rs.6 crores.

7. The essential condition as delineated in the notice dated 08.02.2021 under the provisions of Odisha Minor Minerals Concession Rules, 2016 at Paragraph-10 is that the applicant has to provide the cost of preparation of "Mining Plan" and 'Environment

Clearance” certificate. The conditions imposed for acceptance of the bid at paragraph-3 is that the lease holder shall have to pay for the obtaining the consent to operate from the Odisha Pollution Control Board.

8. In view of the aforesaid mandatory conditions of obtaining the mining plan, the environment clearance and the consent to operate from the State Pollution Control Board, the apprehension of the petitioners that the operation of the sand sairat would cause ‘flood’ is unfounded, as there are sufficient checks and balances that takes care of the evaluation of the mining plan and the environmental impact assessment to make the extraction of sand from river, sustainable. As the State holds the natural resources under the public trust doctrine, generation of revenue by utilization of the natural resources is in the larger public interest.

9. In view of the aforesaid discussions, the writ petition is dismissed being devoid of any merit.

(Jaswant Singh)
Judge

(M.S. Sahoo)
Judge

February 4th, 2022
Cuttack