

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No. 9162 of 2009

M/s. M.M.Constructions **Petitioner**
Mr. S. D. Das, Senior Advocate
-versus-
Union of India and others **Opp. Parties**
Mr.A.K.Mishra, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIAK

Order No.

ORDER
08.3.2022

- 07.
1. The subject matter of the Petitioner concerns the floating of a tender by the Railways notwithstanding that it had entered into an agreement with the present Petitioner on 18th October, 2005 for the execution of the contract.
 2. On 22nd July, 2009, this Court had passed an interim order restraining the Railways from proceeding with the fresh tender pursuant to the letter dated 26th March, 2009 whereby it had rescinded the contract awarded in favour of the Petitioner.
 3. Mr. Saktidhar Das, learned Senior counsel appearing for the Petitioner, submits that notwithstanding the interim order, the Railways proceeded with the fresh tender and got the work completed through another contractor. Mr. Mishra, learned counsel appearing for the Railways, however, states that those steps were taken even before the interim order was passed.

4. Be that as it may, the cause of action that triggered the filing of the present petition clearly does not survive.

5. Mr. Das, however, refers to the Petitioner's rejoinder affidavit filed on 13th August, 2021 which *inter alia* raises a grievance that money is owed by the Railways to the Petitioner for the work already done including return of the security deposit. It also states that in the final bill prepared by the Railways, GST is sought to be charged although it was made applicable only in July, 2017.

6. The scope of the present petition does not permit the Court to adjudicate the above issues that have arisen subsequently. Nevertheless, the Court permits the Petitioner to make a representation to the Railways not later than 25th April, 2022 raising all the claims that it still has against the Railways. If such claim is made within the time stipulated, the Railways will after hearing the Petitioner pass a reasoned order not later than 27th June, 2022 and communicate it to the Petitioner not later than 4th July, 2022. If aggrieved by such decision, it will be open to the Petitioner to seek appropriate remedies in accordance with law.

7. The writ petition is disposed of in the above terms.

(Dr.S.Muralidhar)
Chief Justice

(R.K.Pattanaik)
Judge