

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P (C) No.7103 of 2016

***M/s. Gagan Ferrotech Ltd. and
another.***

.....

Petitioners

Mr.D.K.Das, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. P.P.Mohanty, AGA

CORAM:

**DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO**

ORDER

22.04.2022

Order No.
08.

This matter is taken up through hybrid mode.

2. Heard Mr.D.K.Das, learned counsel for the petitioners and Mr.P.P.Mohanty, learned Addl. Government Advocate for the State.
3. The petitioners have filed this writ petition seeking direction for giving effect to the trading licence No.NLD-8376 of 2011 dated 04.02.2015 issued by the Mining Officer, Baripada Circle, Baripada, opp. party No.4 (one State one Licence) under the amended Rules 2007 vide Annexure-5 and to direct the opposite parties to issue transit permits in favour of petitioner No.1-company basing on the trading licence granted vide Annexure-5 for lifting and transportation of iron ore.
4. Mr.D.K.Das, learned counsel for the petitioner contended that the petitioner-company had filed an application on 12.08.2015 before the competent authority, i.e., Deputy Director of Mines, Joda (opp. party No.3) for procurement of iron ore for self consumption outside State under the provisions of Orissa Minerals (Prevention of

Theft, Smuggling and Illegal Mining & Regulation of Possession, Storage, Trading & Transportation) Rules, 2007, but the said application was rejected by Deputy Director of Mines, Joda (opp. party No.3) vide letter dated 29.08.2015 on the ground that CBI case is pending against the petitioner No.1-company. Therefore, being aggrieved by such order, the petitioner filed an appeal on 04.09.2015 before the Director of Mines, Odisha (opp. party No.2) and the said appeal was rejected by the opp. party No.2 vide order dated 16.11.2015 on the ground that a C.B.I. case is pending against the petitioner No.1-company. Rule 2007 has been amended by the State Government by virtue of the notification dated 09.10.2015 issued by the Department of Steel and Mines, Government of Odisha and the same was published in the extra ordinary gazette on 15.10.2015. Therefore, in view of the amended provision of 2015 Rule, the Mining Officer, Baripada has not allowed the application of the petitioner No.1 for grant of license and after careful consideration the application of the petitioner No.1 under mining Rule 2015, i.e., “one State one licence” has been allowed and the license was valid upto 03.02.2020. Therefore, being a licence holder, as similar situated persons have been allowed the benefits, thereby the petitioner should be given such benefits.

5. Taking into consideration the aforesaid facts, this Court passed an interim order on 19.5.2016 directing that in the meanwhile if the P-2 permit of the petitioners is still valid, the opp. parties shall permit the petitioners to transport minerals in accordance with law till the next date of listing. In compliance to the same, the petitioners were permitted to transport the minerals in accordance with law under the State of Orissa.

6. Pursuant to notice issued by this Court, the opp. parties have filed counter affidavit. Mr. P.P.Mohanty, learned Addl. Government Advocate contended that since the appeal was rejected, therefore, the petitioners cannot claim that they should be allowed to continue to supply transport of minerals for the entire State and also contended that since criminal case is pending before the authority, therefore, the petitioner No.1 cannot be permitted to transport the iron ores.

7. Having heard learned counsel for the parties and after going through the records, it appears that at paragraph-6 (iii) of the counter affidavit filed by the opp. parties, it has been stated as follows:-

“That M/s. Gagan Ferrotech Ltd. has a P-2 licence under the Odisha Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation), Amendment Rules, 2015. In view of amended Rules, M/s. Gagan Ferrotech Ltd. is a licensee under P-2 category. So, M/s. Gagan Ferrotech Ltd. is authorized/entitled to transport minerals to the outside of the State subject to fulfillment of Rule-10 of the Orissa Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules, 2007. Due to mismatch in quantity reflected in Form ‘L’ vis-à-vis in forwarding note of Railway, the Mining Officer, Baripada had no other option than to issue a letter directing the petitioner to submit a revised forwarding note. Petitioner has not yet responded to the letter dated 19.3.2016 issued by the Mining Officer, Baripada Circle, Baripada. At present M/s. Gagan Ferrotech Ltd. is transporting the minerals from Joda circle as well as Baripada circle to his factory located outside the State. In such view of the matter, there is no cause of action exist in the writ petition.”

8. In view of such position, since petitioner No.1 has been

permitted to transport minerals from Joda, Baripada to his factory located outside the State, there is no cause of action survives in the present writ petition for adjudication of the same at this stage.

9. In view of the statements made in paragraph-6 (iii) of the counter affidavit filed by the State, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun/Bichi

(SAVITRI RATHO)
JUDGE