IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 3095 of 2022

APL-VLT (JV)	…..	***Petitioner***
		Mr. P.C. Nayak, Adv.
	Vs.	
State of Odisha and others	…..	***Opposite parties***
		State Counsel

CORAM:
DR. JUSTICE B.R. SARANGI
MR. JUSTICE SASHIKANTA MISHRA

ORDER
11.02.2022

Order No. 01.

This matter is taken up through hybrid mode.

2. Heard Mr. P.C. Nayak, learned counsel for the petitioner and Mr. J.P. Pattnaik, learned Government Advocate.

3. The grievance of the petitioner is that he has paid certain additional royalty, which was enhanced with effect from 15.12.2016. It is contended that enhancement of royalty with retrospective effect has already been set aside by the judgment and order dated 18.03.2015 passed in W.P.(C) No.11830 of 2013 and batch of cases. Learned counsel for the petitioner states that the petitioner would be entitled to the benefit of the said judgment. It is contended that despite the petitioner having made several approaches for refund of the royalty amount, the same is being deducted from the running bill/bills of the petitioner and same has not been refunded to the petitioner in terms of the aforesaid judgment.

4. Taking into consideration the order of this Court passed in W.P.(C) No.11830 of 2013, dated 18.03.2015, this Court has observed as follows :

"xxx xxx xxx
3. On receipt of such certificates, the same may be

produced before the respective Tahasildars and the Tahasildars shall in turn treat the certificates as applications for refund of royalty. However, we make it clear that the petitioners who have ongoing projects with the State, may, instead of seeking refund of any excess royalty paid, may opt for allowing adjustment of the refundable amount against any ongoing projects that they may be undertaking."

5. Further, it is seen that the issue involved in the writ petition is covered by the decision of this Court in ***Akuli Charan Das v. State of Orissa and others*** and batch of cases, 2006 (Supp.-II) OLR 672. The relevant portion of the said judgment reads as under:

> *"21. Under the circumstances, the writ applications, where agreements have been signed before 31.8.2004 i.e., the date of promulgation of the Orissa Minor Minerals Concession Rules, 2004, are disposed of with the following directions:*
> *(1) It is hereby declared that the petitioners are justified in their claim for reimbursement on the basis of the revised rate stipulated in 2004 Rules.*
> *(2) The petitioners may revise their bills to incorporate such enhanced claim on account of revised royalty.*
> *(3) The State is to effect reimbursement/payment towards royalty subject to the petitioners furnishing evidence of payment of such royalty.*
> *With the aforesaid observations and directions, the writ petitions are disposed of."*

6. Upon hearing the learned counsel for the parties, we are of the considered opinion that the writ petition will be governed by the above decisions of the Court.

7. In that view of the matter, we direct that in the event the petitioner, with regard to the grievance made in this petition, files a comprehensive representation before appropriate authority attaching running account bills along with certified copy of this order annexing therewith the judgment of this Court dated 18.03.2015 passed in W.P.(C) No.11830 of 2013 and batch of

cases and the decision in the case ***Akuli Charan Das*** (supra) within four weeks hence, the same shall be considered and decided by the authority concerned by a reasoned and speaking order, as expeditiously as possible preferably within a period of four months from the date of filing of such representation. It is further directed that in case the petitioner is found to be entitled for refund of any amount, the same shall be refunded to the petitioner within two months from the date of passing of the order or adjust the refundable amount against any ongoing/ completed projects that they may be undertaken if the petitioner may opt for.

8. The writ petition is allowed to the aforesaid extent.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(SASHIKANTA MISHRA)
JUDGE

Ashok