

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.13354 of 2014

Shiv Dutt Sharma

....

Petitioner

Mr. Bigyan Ku. Sharma, Adv.

-versus-

State of Odisha and Anr.

....

Opp. Parties

Mr. T.K. Pattnaik, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. PANIGRAHI

ORDER

07.02.2022

Order No.

03.

1. This matter is taken up through hybrid arrangement.
2. Heard Mr. Bigyan Kumar Sharma, learned counsel for the petitioner and Mr. T.K.Pattnaik, learned Additional Standing Counsel for the State.
3. The petitioner has filed this writ petition seeking to quash the letter dated 29.05.2014 under Annexure-6 issued by the opposite party no.2- Deputy Director of Mines, Koira, by which fresh demand has been raised against the petitioner for excess production of mineral beyond the approved quantity i.e. Rs.62,76,61,252/- for the period from 2000-01 to 2009-10.
4. Learned counsel for the petitioner contends that earlier, letter dated 20.10.2012 under Annexure-1 was issued by the opposite party no.2- Deputy Director of Mines, Koira for recovery under Sub-Section (5) of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 of the price of the mineral raised without lawful authority in respect of Nuagaon Iron/ Mn. Mines over an area of 12.942 hectares. Thereafter, the opposite party no.2- Deputy Director of Mines, Koira issued another letter i.e. letter

dated 14.11.2012 under Annexure-2 reiterating the claim made in the earlier letter fixing to 19.11.2012 for hearing of the petitioner. The petitioner made a request before the opposite party no.2- Deputy Director of Mines, Koira vide his request letter dated 23.11.2012 under Annexure-3 for fixation of a date for his hearing. Thereafter, the opposite party no.2- Deputy Director of Mines, Koira issued letter dated 10.01.2013 under Annexure-4 reiterating the above said claim. Pursuant to such letter under Annexure-4, the petitioner filed his reply under Annexure-5 before the opposite party no.2- Deputy Director of Mines, Koira. It is contended that without considering the reply of the petitioner under Annexure-5 and without giving opportunity of hearing, the demand letter dated 29.05.2014 under Annexure-6 has been issued by the opposite party no.2- Deputy Director of Mines, Koira and, therefore, the authority has acted arbitrarily which is contrary to the provisions of law.

5. Learned Additional Standing Counsel for the State submits that in view of judgment of the Hon'ble Supreme Court passed in the case of **Common Cause –vrs. Union of India** (Writ Petition (Civil) No.114 of 2014 disposed of on 2nd of August, 2017), the petitioner is liable to pay the aforesaid amount.

6. As it appears from the records, this Court while issuing notice in the present case vide order dated 13.08.2014 passed an interim order directing that letter dated 29.05.2014 (Annexure-6) issued by the Deputy Director of Mines, I/C, Koira may not be enforced without leave of this Court. Though seven years passed in the meantime, no counter affidavit has been filed in this case. Learned Additional Standing Counsel for the State has also no instructions with regard to disposal of the reply filed by the petitioner under Annexure-5 in response to Annexure-4.

7. In view of such position, the writ petition is disposed of directing the opposite party no.2- Deputy Director of Mines, Koira to pass appropriate order taking into account the reply under Annexure-5 filed by the petitioner by giving opportunity of hearing to all the parties within a period of thirty days hence.

8. The interim order passed earlier shall continue for a period of thirty days from today.

9. Accordingly, this writ petition is disposed of.

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

BJ

