

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5237 of 2020

Duryodhan Pati

.....

Petitioner

Mr. Bibhuti Bhusan Mishra. 2, Adv.

-Versus-

State of Orissa & another

.....

Opp. Parties

Mr. P.K. Muduli, AGA

CORAM:

JUSTICE S. TALAPATRA

JUSTICE M.S. SAHOO

ORDER

06.09.2022

Order No.

02.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. Bibhuti Bhusan Mishra 2, learned counsel appearing for the petitioner. We have also heard Mr. P.K. Muduli, learned Addl. Government Advocate, who has appeared for the Opp. Parties on advance notice.
3. By means of this writ petition, the petitioner, who executed the construction of R.O.B. near Haladiapadar of RD 604/900 Km on Howrah-Chennai Lane under Agreement No.3P1 of 2010-2011.
4. According to the petitioner, he is entitled to escalation costs, as the prices of the materials and labour as used and deployed in the construction had increased before completion of the said work. Accordingly, the petitioner raised the escalation bill. By the notice dated 20.07.2018, the escalation bill was submitted before the Executive Engineer, Ganjam (R&B) Division No.II, Berhampur,

Ganjam. In the said notice, the petitioner had urged that the Works Department Memorandum dated 07.04.1986 stands effective bereft of the discriminatory period mentioned therein, but the component percentage as per Clause-31(d) remains in force. Accordingly, his escalation bill has been computed on the basis of 58 R.A. bills and the payable amount has been worked out at Rs.2,70,89,018/-. The price escalation bill is supported by the corresponding records and those have been referred in the said notice. The said Executive Engineer was asked to make payment within a period of two weeks from the date of receipt of the notice.

5. It is an admitted position, as evident from Annexure-4 that the said Executive Engineer had communicated the petitioner that no communication as regards the escalation clause by the High Court of Orissa, Cuttack has been received from the higher authorities till today, for which no action has been taken against the pending claims.

6. Learned counsel for the petitioner has submitted that solely based on the said observation, the Opp. Parties had not taken any action so far. As the grievance springs out of the agreement, this Court has very limited scope to examine or interfere. But we may direct the competent authority to take decision as warranted on the claim of the petitioner vide the escalation bills as reflected in the notice, Annexure- 2 series to the writ petition.

7. Mr. Muduli, learned Addl. Government Advocate has submitted that this Court may direct the competent authority to take call on the issue and pass the order on due consideration. All relevant aspects may be considered by the competent authority.

8. Having situated thus, we direct the Opp. Parties, in particular the Opp. Party No.2 to take a decision on Annexure- 2 series (the

notice and the escalation bills) submitted by the petitioner within a period of two months from today.

9. In terms of the above, the writ petition stands disposed of.
10. Urgent certified copy of this order be granted as per rules.
11. A free copy of this order be furnished to Mr. P.K. Muduli, learned Addl. Government Advocate forthwith.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge



Subhasis



