

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 5141 of 2022

Pramod Kumar Sahoo

.....

Petitioner

Mr.P.K. Sahoo, Advocate

Vs.

*Principal Secy. Government
of Odisha and others*

.....

Opposite parties

T.K. Patnaik, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

07.03.2022

Order No.

01

This matter is taken up through hybrid mode.

2. Heard Mr. P.K. Sahoo, learned counsel for the petitioner and Mr. T.K. Patnaik, learned Additional Standing Counsel.

3. The petitioner has filed this writ petition seeking direction to the opposite parties to allow the first refusal right to the petitioner at the time of auction of Tikarapada Stone Quarry-I.

4. Mr. Sahoo, learned counsel for the petitioner contended that the petitioner has already filed a representation to the authority on 05.06.2020 under Annexure-5 for captive use of Sairat Sources shown as Non-Captive in district survey report, but no action has yet been taken on such representation. He further contended that since he is the lease-holder in respect of Tikarpada Stone Quarry-I, whenever there will be future auction, it should have been granted in his favour on the basis of First Refusal Right, in view of the judgment passed by this Court in the case of *Rahul Mishra Vs. Collector, Bolangir* (W.P.(C) No. 20085 of 2011 disposed of on 28.03.2012).

5. Mr. T.K. Patnaik, learned Additional Standing Counsel

contended that the judgment, which has been relied upon by the petitioner, has no application to the present case, as such right was made available to the party under the old Rule, i.e. Orissa Minor Mineral Concession Rules, 2004, that too in respect of mining lease. But, here is a case of stone quarry and, as such, under the new Rules, i.e. Orissa Minor Mineral Concession Rules, 2016, such provision is not made available. Only privilege can be granted to the petitioner, in the event he participates in the auction after expiry of the period of lease granted to him, and succeeds in the auction process.

6. Having heard learned counsel for the parties and after going through the record, it appears that the petitioner had been granted the quarry lease in question for a period of five years, as per the agreement extended between the parties in Annexure-2, and after expiry of the said five years, the petitioner may not have any right to continue in the quarry, if the same is placed for fresh auction. In terms of the Rules governing the field, the petitioner may participate in the process of auction itself and if he becomes the highest bidder he can continue in the quarry. The concept of captive source of the petitioner has not been traced in the agreement itself nor any agreement has been executed between the petitioner and the State. So far as captive use of the quarry is concerned, at this stage, this Court is not inclined to entertain such a prayer of the petitioner to direct opposite parties to grant quarry lease in favour of the petitioner, after expiry of the lease period of five years, as per the lease agreement. But, fact remains, if the petitioner has already used the said quarry for the captive use, the State Government is to consider the grievance and pass appropriate order in accordance with law either by passing an order of extension of lease period or by calling upon the petitioner to match the price with the highest bidder. In the event the petitioner

does not come up to match the price, the State Government may deny the claim of the petitioner to continue with the lease.

7. With the aforesaid observation/direction, the writ petition stands disposed of.

8. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Arun

(SAVITRI RATHO)
JUDGE

