IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 5371 of 2022

Tapan Kumar Nanda	…..	***Petitioner***
		Mr. S.K. Dash, Advocate
	Vs.	
State of Orissa and others	…..	***Opposite parties***
		Mr. P.P. Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE V. NARASINGH

ORDER
24.02.2022

Order No. 01

This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Dash, learned counsel for the petitioner and Mr. P.P. Mohanty, learned Additional Government Advocate.

3. The petitioner files this writ petition seeking direction to opposite parties to accept the amount demanded under Annexure-4 by two half yearly installments.

4. Mr. S.K. Dash, learned counsel for the petitioner contended that the petitioner being the highest bidder, has deposited Rs.1,57,38,772/- as security pursuant to the letter dated 01.09.2021 issued by the Tahasildar, Hatadihi, which has been acknowledged by the authority concerned on 18.09.2021 vide receipt No. 0144174. On 03.02.2022 under Annexure-4, the petitioner has been called upon to deposit the sairat dues as provided under Rule 32 (5) of the Odisha Minior Mineral Rules, 2016 for an amount of Rs.2,33,92,832/- within three days. According to learned counsel for the petitioner, the

Tahasildar, Hatadihi could not have passed such an order directing the petitioner to pay such amount within a period of three days, in view of Rule 27 (13) of the Odisha Minior Minerals Rules, 2016.

5. Mr. P.P. Mohanty, learned Additional Government Advocate contended that in view of Rule 32 (5) of the OMMS Rules 2016, the petitioner is liable to pay royalty, dead rent, surface rent, additional charge, amount of contribution payable to the District Mineral Foundation and amount of contribution payable to the Environment Management Fund. Since these are the statutory dues, the petitioner is liable to pay, which has been calculated and communicated by the Tahasildar on 03.02.2022 vide Annexure-4 and the petitioner has been called upon to deposit the same within three days.

6. Having heard learned counsel for the parties and after going through the record, it appears that the petitioner has never disputed with regard to quantum of such statutory deposit as has been assessed and communicated by the Tahasildar on 03.02.2022, i.e. an amount of Rs.2,33,92,832.00. However, the petitioner is aggrieved by the direction to deposit the same within a period of three days, which is in gross violation of Rule-27 (13) of the OMMR Rules, 2016. Form-N as mentioned in Rule 27 (13), more particularly part-VI thereof provides as follows:-

1. *The lessee shall, during the subsistence of this lease pay to Government royalty in respect of the minor mineral removed by him from the leased area at the rates prescribed in Schedule II and surface rent at the rate prescribed in Schedule I.*

2. *All payments relating to rents, royalties, fees, etc., as provided under these rules shall be paid to the State Government free from all deductions, at the District Treasury/Sub Treasury and in such manner as the Competent Authority may prescribe.*

> 3. *For the purpose of computing the royalty, the lessee shall keep correct account of the mineral produced, stacked and removed from the lease area and submit a return to the Competent Authority and Director in Form K & Form P.*
>
> 4. *The lessee shall pay royalty in advance and the differential amount, if any, on computation shall be paid by the end of the first fortnight of each half yearly period during the subsistence of the lease.*
>
> 5. *The lessee shall pay surface rent in advance and not later than 15th January and 15th July of each year.*

7. On perusal of Clause-4 and 5 of the above quoted provision, clearly indicates that the petitioner is liable to pay royalty in advance and the differential amount, if any, on computation shall be paid by the end of the first fortnight of each half yearly period during the subsistence of the lease and the lessee shall pay surface rent in advance and not later than 15th January and 15th July of each year. In view of such position, since the petitioner has admitted that he is liable to pay the demand raised in Annexure-4, the only question is to be considered, whether the Tahasiladar has taken into consideration the provisions as quoted above, while directing the petitioner to deposit the same within a period of three days.

8. Mr. S.K. Dash, learned counsel for the petitioner, at the outset contended that the petitioner is willing to deposit Rs.1.00 crore within a period of seven days.

9. In view of the above, the petitioner is directed to deposit Rs.1.00 crore, out of the demanded amount indicated in Annexure-4, within a period of seven days hence and the balance amount shall be deposited in terms of Clause- (4) and (5) of Part-VI of Form-N of Rule 27 (13) of OMMR Rules, 2016, on the date, as would be fixed by the Tahasildar. Needless to say that on deposit of part payment of

Rs.1.00 crore by the petitioner, out of the amount demanded under Annexure-4 within a period of seven days hence, as undertaken by learned counsel for the petitioner, the Tahasildar, Hatadihi shall forthwith execute the lease deed in favour of the petitioner by way of agreement.

10. With the aforesaid observation and direction, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun

(V. NARASINGH)
JUDGE