

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 7295 of 2022

Amita Choudhury

.....

Petitioner

Mr. Subhankar Rout, Adv.

Vs.

State of Orissa and Ors.

.....

Opposite Parties

Mr. P.P. Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

04.04.2022

Order No.

01.

This matter is taken up through hybrid mode.

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

3. The petitioner has filed this writ petition seeking direction to opposite party no.5 for refund of excess amount of royalty of Rs.13,09,080/- in respect of the work "Improvement of Digapahandi road to Gokarnapur PWD road via: Jakarapalli, Sanaburada, Badadumula, Dankari under RIDF" vide Agreement No. 02F2/2014-15 in terms of the direction issued by opposite parties no.3 & 4 under Annexure-10 and Annexure-7 series respectively.

4. Mr. S. Rout, learned counsel for the petitioner contended that the petitioner had earlier approached this Court by filing W.P.(C) No. 35668 of 2020 and this Court vide order dated 19.01.2021 under Annexure-3 disposed of the said writ petition directing the opposite party-authority to consider the representation of the petitioner in terms of the judgment passed by

this Court in W.P.(C) No. 11830 of 2013, which was disposed of on 18th March, 2015 and the ratio decided in *Akuli Charan Das vrs. State of Orissa*, 2006 (Supp.II) OLR 672. The said order was duly communicated to the opposite parties-State. In compliance thereof, opposite party no.4-Executive Engineer, Rural Works Division-II, Ganjam, Berhampur communicated to the petitioner with calculation sheet for refund of excess deduction of royalty amount of Rs.13,08,090/- for the work in question, vide Annexure-5 dated 08.04.2021. Accordingly, the petitioner filed representation to opposite party no.5-Tahasildar, Digapahandi, Ganjam for refund of excess deduction of royalty pertaining to the work as mentioned above, but no action was taken. Opposite party no.4, vide letters dated 23.06.2021 and 08.09.2021, also instructed to opposite party no.5 to refund the excess royalty amount of Rs. 13,08,090/-. Again opposite party no.3-Superintending Engineer, Rural Works Division-II, Berhampur, vide letter dated 17.12.2021 under Annexure-10, intimated opposite party no.5 to refund the excess royalty amount of Rs. 13,08,090/-. But, the Tahasildar, Digapahandi, Ganjam, instead of complying the same, delayed the matter. Though the petitioner time and again requested opposite party no.5 to refund the excess royalty amount, but he did not respond. Therefore, the petitioner has approached this Court by filing this writ petition.

5. Mr. P.P. Mohanty, learned Additional Government Advocate contended that since the excess royalty amount has already been determined by the authority, there is no justification to keep the amount pending with the Tahasildar, Digapahandi.

6. Considering the contentions raised by learned counsel for

the parties and after going through the records, this Court is of the considered view that the excess amount of royalty received by opposite party no.5 should be refunded to the petitioner as per calculation sheet prepared by opposite party no.4 in compliance of the direction issued by this Court in W.P.(C) No.35668 of 2020. Therefore, this Court directs opposite party no.5-Tahasildar, Digapahandi to determine the amount and refund to the petitioner the excess royalty amount deducted as expeditiously as possible preferably within a period of 4 weeks, otherwise it may amount to violation of order dated 19.01.2021 passed by this Court in W.P.(C) No. 35668 of 2020.

7. With the above direction, the writ petition stands disposed of.

9. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Alok/Puspa