

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 7553 of 2022

*M/s. Trinath Engineers,
Bhubaneswar*

.....

Petitioner

Mr. Indramani Sahoo, Adv.

Vs.

State of Orissa & Others

.....

Opposite party

Mr. T. Patnaik, A.S.C.

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

25.03.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. Indramani Sahoo, learned counsel for the petitioner and Mr. T. Patnaik, learned Addl. Standing Counsel of the State.

3. The petitioner has filed this writ petition challenging the rescission of contract, vide letter dated 11.03.2022 under Annexure-21, and letter dated 14.03.2022 under Annexure-22, so far as the work “construction of H.L. Bridge over river Bheden on Hirma – Malda road in the district of Jharsuguda under BSY” is concerned.

4. Mr. Indramani Sahoo, learned counsel for the petitioner contended that the work in question was entrusted to the petitioner, pursuant to the agreement no.71 P1 of 2018-19, which was approved with levy of penalty @ 20% on value of left over works as per clause 2(b)(i) of P1 agreement on approval of Govt. in RD Deptt., vide letter dated 09.03.2022. Since there was delay in execution of the work, the same was rescinded, vide order impugned in Annexures- 21 and 22 dated 11.03.2022 and

14.03.2022 respectively. It is further contended that delay cannot be attributable to the petitioner, rather delay was on the part of the authority to provide approach road to the project and, as such, the order passed by the authority rescinding the contract, cannot sustain in the eye of law.

5. Mr. T. Patnaik, learned Addl. Standing Counsel for the State-opposite parties contended that whether the delay was attributable to the petitioner or to the opposite parties, that itself is a disputed question of fact. Further, whether the petitioner was diligent in discharging his duties and responsibilities in order to complete the contract work within the time stipulated, the same is to be considered by the authority concerned. In view of involvement of disputed questions of fact, this Court should not interfere with the impugned orders of rescinding the contract issued by the authority vide Annexures- 21 and 22 dated 11.03.2022 and 14.03.2022 respectively.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that work “construction of H.L. Bridge over river Bheden on Hirma – Malda road in the district of Jharsuguda under BSY” was allotted in favour of the petitioner, pursuant to the agreement executed in the year 2018-19 and, as such, the work has not been completed due to delay in providing the approached road, as has been contended by the learned counsel for the petitioner. But fact remains, there has been already delay in execution of the work and, as such, due to delay in execution of the work, the contract has been rescinded by the authority vide Annexures- 21 and 22 dated 11.03.2022 and 14.03.2022 respectively.

7. In the above view of the matter, since admittedly there was delay in execution of work and as a consequence thereof the contract has been rescinded, this Court is not inclined to entertain this writ petition. However, liberty is granted to the petitioner to pursue its remedy before the appropriate forum in terms of the agreement executed between the parties, so that the benefit can be granted to the petitioner.

8. With the liberty aforesaid, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Ashok/Sukanta

(SAVITRI RATHO)
JUDGE

