

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 1775 of 2014

Sumanta Kumar Lenka

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Petitioner

Mr. P.K. Mishra, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite parties

Mr. P.P. Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. PANIGRAHI

ORDER

12.01.2022

Order No.

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This matter is taken up through video conferencing mode.

2. None appears for the petitioner at the time of call.

3. Heard Mr. P.P. Mohanty, learned Additional Government Advocate for the State.

4. Perused the record. The petitioner has filed this writ petition seeking direction to opposite parties no.4 & 5 to refund the entire amount deposited by him with appropriate interest.

6. Mr. P.P. Mohanty, learned Additional Government Advocate stated that since the petitioner has not complied with the conditions of the agreement itself, he has not been refunded the amount deposited by him in terms of the contract.

7. Considering the contentions raised by learned

Additional Government Advocate and after going through the records, it appears that Kushabhadra River Sand Source at mouza-Athantar, Giringo and Mahukhanda is a permanent sairat source involving a total area of Ac.62.30 dec. and after due procedure, the auction for the source in question was held for the year 2013-14 in the office of opposite party no.3-Sub-Collector, Bhubaneswar on 06.03.2013 in presence of the bidders and opposite party no.4. During auction, only two bidders, namely, the petitioner and Ajit Kumar Paikray participated in the auction. The petitioner offered Rs.6,01,222/-, whereas Ajit Kumar Paikray offered Rs.5,11,111/- as against the offset price of Rs.4,64,444/- fixed by opposite party no.3. Therefore, the bid of the petitioner was accepted for an amount of Rs.6,01,222/- as the highest bidder for the financial year 2013-14. Accordingly, opposite party no.3 vide order dated 06.03.2013 directed the petitioner to deposit 25% of the bid amount with opposite party no.4. It was also directed to the petitioner to take appropriate action to obtain the environmental clearance at the earliest. The petitioner deposited Rs.1,51,000/- on the date of auction i.e. 06.03.2013 vide R.R. No.9648962 dated 06.03.2013. It was further directed to the petitioner to file an application with bank draft of Rs.1000/- towards scrutiny fees before opposite party no.5-State Environment Impact Assessment Authority to obtain the environment

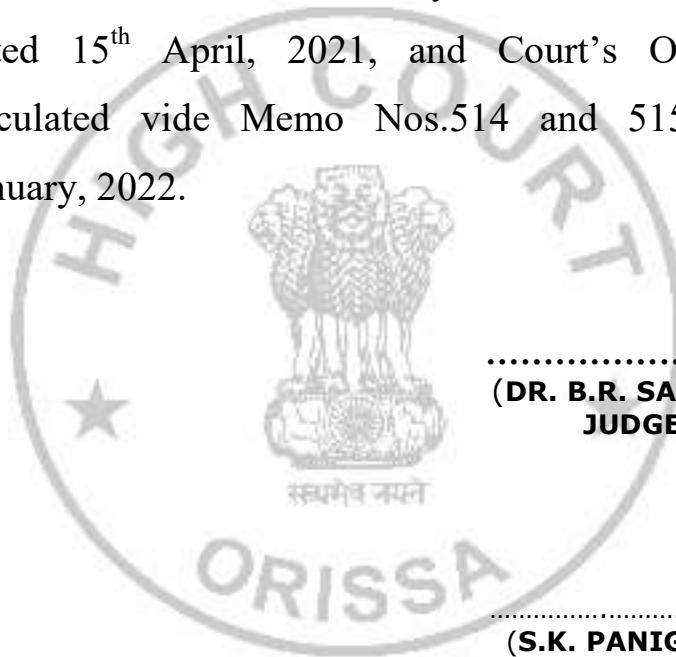
clearance so as to enable the State authorities to execute the agreement and thereafter, to issue the work order for the operation of source. The petitioner for the reasons best known to him took interest to follow up the matter with opposite party no.5 for grant of environmental clearance as a result of which, neither any agreement could be executed nor any work order could be issued. For the laches of the petitioner, the State Government should not loose any revenue particularly when the State authorities were ready and willing to perform their part of the contract. As the petitioner did not discharge his obligation with regard to receipt of the environmental clearance, as a consequence thereof, the agreement could not be executed for that purpose. therefore, any amount deposited by the petitioner cannot be refunded to him. Further, the petitioner has lifted sands unauthorizedly from two areas of Kushabhadra River Sand Source, which weakened the river embankment, without obtaining environment clearance certificate in gross violation of OMMC Rules, 2004. For such illegal act, the petitioner was issued show-cause notices by opposite party no.4 vide P.R. No.1181 dated 03.06.2013, No.1487 dated 18.07.2013 and No.1613 dated 05.08.2013, but no explanation was submitted by the petitioner. For such unauthorized lifting of sand, the petitioner is liable to be penalized. Therefore, the relief sought by the petitioner is not permissible. As such, the period of lease has already

over in the meantime.

8. In that view of the matter, this Court is not inclined to entertain this writ petition and accordingly, the same is dismissed.

9. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

Alok



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(**DR. B.R. SARANGI**)
JUDGE

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(**S.K. PANIGRAHI**)
JUDGE