

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6845 of 2017

M/s.Essar Steel India ltd. and another* *Petitioners

Mr. S.S. Mohanty, Advocate

-versus-

State of Odisha and others

.... *Opposite Parties*

Mr. P.K. Mudili, A.G.A.

CORAM:

THE CHIEF JUSTICE

JUSTICE B. P. ROUTRAY

ORDER
16.05.2022

Order No.

03.

1. The challenge in the present petition is to the request made by the Opposite Parties-State to the Petitioner to make one time contribution of Rs.2.50 crores per cusec of water allocated to the Industries pursuant to the Resolution dated 18th May, 2015 of the Department of Water Resources, Government of Odisha, towards a Water Conservation Fund (WCF) which was to be utilized for construction of different water conservation projects.

2. As far as the Petitioners are concerned, it was requested to deposit, by a letter dated 30th July, 2015 a sum of Rs.87.05 crores. This was followed by another letter dated 27th August, 2016 from the Executive Engineer, Baitarani Division, Salapada making the same request.

3. Apprehending that this was a coercive measure to involuntarily exact a contribution from the Petitioners to the WFC without the

authority of law, the present writ petition was filed in which on 19th April, 2017 an interim order was passed that ‘no coercive action shall be taken against the Petitioners in pursuance of the demand notice’. That interim order is continuing till date.

4. The counter affidavit filed on behalf of the Opposite Party explains the rationale behind the creation of the WCF by the aforementioned resolution dated 18th May, 2015 of the Department of the Water Resources. The stand taken in paragraph-14 of the counter affidavit is that ‘this is not a tax and is a benevolent contribution sought from the water users industrial and commercial houses for development of water resources of the State and is in no way violative of Article 265 of the Constitution of India’.

5. Indeed the Court is unable to find anything in the reply which suggests that there would be any coercive action taken against the Petitioners for its failure to contribute to the WCF. From the language used in the letters dated 30th July, 2015 and 27th August, 2016 it is plain that it is only a ‘request’ made by the Opposite Parties to the Petitioners which cannot be characterized as a ‘demand’, or in the nature of a compulsion exaction of money in the nature of tax.

6. In that view of the matter, none of the directions sought are required to be issued.

7. The interim order stands vacated.

8. The writ petition is disposed of.

9. An urgent certified copy of this order be granted as per rules.

(Dr. S. Muralidhar)
Chief Justice

(B.P. Routray)
Judge

