

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 7644 of 2017

M/s. K.M. Construction, Bhadrak

Petitioner

Mr. P.C. Nayak, Adv.

Vs.

State of Odisha and others

Opposite parties

Mr. T. Pattnaik, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

16.05.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard Mr. P.C. Nayak, learned counsel for the petitioner and Mr. T. Pattnaik, learned Additional Standing Counsel.

3. The petitioner has filed this writ petition challenging the validity of office memorandum dated 08.11.2013 and 04.05.2016 for amendment to contractual and codal provisions for increasing the efficiency and transparency and so also in adding the Additional Performance Security (APS) in amending to para-3.5.5. (V) Note-II of the OPWD Code Volume-1. It further seeks for a direction to the Opposite Parties to allow the petitioner to participate in the tender process in ignoring the additional performance security (APS) under clause 41 of the tender call notice.

4. Learned counsel for the petitioner submits that the present writ petition is covered as per the decision of this Court passed in W.P.(C) No.11830 of 2013 on 18th March 2015 in the case of ***Akuli Charan Das v. State of Orissa and others and batch of cases***, 2006 (Supp.-II) OLR 672 and, as such, the present writ petition may be disposed of in terms of the said

order.

5. Learned Additional Standing Counsel for the State-Opposite Parties does not oppose to the same.

6. In view of the above, the writ petition is disposed of in terms of the order dated 18th March 2015 passed in W.P.(C) No.11830 of 2013 and accordingly, we direct that in the event the Petitioner, with regard to the grievance made in this petition, files a comprehensive representation before appropriate authority attaching running account bills along with copy of this order annexing therewith the judgment of this Court dated 18th March 2015 passed in W.P.(C) No.11830 of 2013 and batch of cases and the decision in the case *Akuli Charan Das* (supra) within four weeks hence, the same shall be considered and decided by the authority concerned by a reasoned and speaking order as expeditiously as possible preferably within a period of four months from the date of filing of such representation.

7. It is further directed that in case the Petitioner is found to be entitled for refund of any amount, the same shall be refunded to the Petitioner within six weeks from the date of passing of the order or adjust the refundable amount against any ongoing/completed projects that they may be undertaking if the Petitioner may opt for.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

