

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3278 of 2006

***M/s. Oswal Chemicals and
Fertilizers Ltd. and another***

....

Petitioners

Mr. S.P. Mishra, Sr. Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. N.C. Panigrahi, Sr. Advocate for OP Nos.2 and 3

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK**

ORDER

21.06.2022

Order No.

W.P.(C) No.3278 of 2006 & I.A. No.12591 of 2021

18.

1. The challenge in the present petition, which was filed way back in 1st March, 2006, was to the action of the Chief Engineer, Project-cum-Chief Electrical Inspector (Generation), Power House, Unit-5, Bhubaneswar in raising a demand with regard to payment of Electricity Duty (ED) on self generation consumption by the Petitioners. A further challenge in the petition was to the initiation of certificate proceedings in connection with the said demand under Certificate Case No.2 of 2005 pending before the Certificate Officer-cum-Collector, Jagatsinghpur (OP No.4).

2. Even while the said writ petition was filed, the Petitioners had already filed two other writ petitions, namely, W.P.(C) Nos.11531 of 2003 and 1833 of 2004. The main prayer in the present writ petition was that till the disposal of W.P.(C)

No.11531 of 2003, further proceedings in aforementioned Certificate Case No.02 of 2005 should remain stayed. The prayer in W.P.(C) No.11531 of 2003 was for a direction to the State Government to issue the Petitioners a 'Production Certificate' in terms of the Industrial Police Resolution of 1996 (IPR-96). As it transpires, when the present writ petition was heard along with the aforementioned writ petition on 22nd March, 2007 an order was passed directing the State Government in the connected writ petition to take a decision in respect of the grant of production certificate to the Petitioners. The Court is informed that since then the production certificate has, in fact, been granted to the Petitioner No.1 in April, 2007.

3. On 22nd March, 2007 on the same date that the aforementioned order was passed, the following order was passed in the present petition:

"Misc. Case Nos.4998 & 9546 of 2006

Misc. Case No.9546 of 2006 is filed for vacation of the interim order dated 19.4.2006 passed in misc. case no.4998 of 2006. Today we have disposed of W.P.(C) No.11531 of 2003 directing the State Government to take a decision in respect of grant of Production Certificate.

Therefore, we direct that in case the petitioners deposit a sum of Rs.2,00,00,000/- (Two Crores) with opposite party no.3 on or before 31.3.2007 and further a sum of Rs.3,00,00,000/- (Three Crores) within next two months meaning thereby by 31.5.2007, the proceeding in Certificate Case No.2 of 2005 pending before the Certificate Officer-cum-Collector, Jagatsinghpur shall remain stayed. The above deposits shall be subject to further orders of this Court passed in the instant writ petition.

The misc. cases are disposed of accordingly.”

4. It is seen therefore that on the aforementioned date itself, the main prayer in the present petition had been granted and therefore nothing survived as far as the present petition was concerned.

5. However, in view of certain developments that took place soon after grant of production certificate, involving the Petitioners plea for grant of “incentive certificate”, the Petitioners decided to file the present amendment application I.A. No.12591 of 2021 incorporating certain prayers in that regard.

6. The said amendment application has been vehemently opposed by Opposite Parties 3 and 4. Mr. Panigrahi, learned Senior counsel appearing on their behalf urges that the Petitioners cannot seek to amend the present petition since the amendment seeks to expand its scope far beyond the original prayer in the writ petition.

7. Mr. S.P. Mishra, learned Senior counsel for the Petitioners at this juncture states that the Petitioners would like to reserve their liberty to file a fresh substantive petition with regard to the prayers made in the amendment application.

8. In that view of the matter, both the main writ petition as well as the amendment application are disposed of with liberty to the Petitioners to seek other appropriate remedies as regard the prayers made in the amendment application. The interim

order dated 22nd March 2007 has worked itself out is hereby brought to an end. The Court clarifies that it has not expressed any view on the merits of the contentions as far as the amendment application is concerned.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

KC Bisoi

