IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.1742 of 2013

Jayasingh Bhoi .... ***Petitioner***

Mr. Deepak Ranjan Sundaray, Adv.

-versus-

Managing Director, OSWC, Bhubaneswar & Ors. .... ***Opp. Parties***

Mr. B.K. Dash, Adv. (for O.P. Nos.1 to 4)

CORAM:
DR. JUSTICE B.R. SARANGI
MR. JUSTICE S.K. PANIGRAHI

ORDER
04.01.2022

Order No.

03.

1. This matter is taken up through hybrid mode.

2. Heard Mr. Deepak Ranjan Sundaray, learned counsel for the Petitioner and Mr. B.K. Dash, learned counsel for the Opposite Party Nos.1 to 4- OSWC and perused the records.

3. In this writ petition, the Petitioner has prayed to quash the entire recovery which has been made with regard to the transit loss value from the billed amount issued in favour of the Petitioner since the date of his engagement as H and T Contractor till the date, considering the facts and circumstances of the case.

4. Mr. B.K. Dash, learned counsel for the Opposite Party Nos.1 to 4, on instructions, contended that no deduction has been made against the bill no.007617 dated 30.04.2010 towards transit loss. To that effect, he has produced the instructions received from the Opposite Party Nos.1 to 4. Paragraph-8 of the said instructions reads as follows:

> "The terms and conditions in the agreement are very clear and clause-XVI(c) speaks for itself. Besides, it

> is seen that the Annexure-3 series contains the position regarding recovery made by FCI from the bills of the OSWC towards transit loss. But the Petitioner has not indicated his bills nos. in which he has claimed to the OSWC and recovery has been made against from those bills. These recoveries made by the FCI have not been recovered entirely from the bills of the Petitioner. For instance, no deduction has been made from the bills of the Petitioner towards transit loss for the period of March, 2010 (bill No.005140, 005062, 005063/31.03.2010) for the period June 2007 (bill No.008398/ 30.06.07) for the period of August, 2007, (bill no.00253/31.08.07 and 002514/31.08.07) for the period of October, 2008 (bill no.002563/ 31.10.08). Further the deduction shown against bill no.007617/30.04.10 is not relating to T.L. FCI has deducted from this bill towards fumigation service. Hence no deduction has been made from the Petitioner."

5. In view of the above position, since no amount has been deducted from the Petitioner towards the transit loss, the relief sought for cannot be granted and as such if the Petitioner disputes such facts, it is open to him to approach the appropriate forum, if so advised.

6. With the above liberty, this writ petition is disposed of.

7. Urgent certified copy of this order be granted as per Rules.

(Dr. B.R. Sarangi)
Judge

(S.K. Panigrahi)
Judge

BJ