

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.10115 of 2020

Soumya Ranjan Samal

.....

Petitioner

Mr. S. Panda, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite Parties

Addl. Govt. Advocate

(O.Ps.1-4)

Mr. S.K. Ojha, Advocate

(O.P.5)

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

11.11.2022

W.P.(C) Nos.10115 of 2020 and 10118 of 2020

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. S. Panda, learned counsel appearing for the petitioners and Mr. S.K. Ojha, learned counsel appearing for opposite party-Subarnapur Municipality.

3. The petitioners have filed this writ petition challenging the Tender Call Notice No.849 dated 12.03.2020 issued by the Executive Officer, Subarnapur Municipality for allotment of three numbers of shop rooms situated at Subarnapur Block Chhak adjacent to Block Colony.

4. Mr. S. Panda, learned counsel appearing for the petitioners contended that the petitioners in the above writ petitions are unemployed youth and they were carrying on their business on the land situated at Subarnapur Block Chhak for maintaining their livelihood. But, the opposite party-authorities, by initiating Land Encroachment Case Nos.99 of 1988 and 99 of 1988, evicted the

petitioners from the said land and, as such, they are not able to maintain their livelihood. It is further contended that opposite party no.5 has already constructed shop rooms and issued tender call notice for allotment of the said shop rooms. Pursuant to such tender notice, both the petitioners have already deposited Rs.50,000/- each as EMD for allotment of shop rooms in their favour so that they can be able to carry on their business in the allotted shop rooms for their livelihood.

5. Mr. S.K. Ojha, learned counsel appearing for opposite party no.5-Executive Officer, Subarnapur Municipality, referring to counter affidavit, contended that petitioners have not deposited any amount in respect of tender call notice no.849 dated 12.03.2020 issued by opposite party no.5-Executive Officer, Subarnapur Municipality, but they have deposited Rs.50,000/- each in respect of tender call notice no.3832 dated 24.11.2016. It is contended that some other persons had challenged the said tender call notice by filing W.P.(C) Nos.22505, 22501, 22499, 22497 and 22506 of 2016 and 727 of 2017 and therein this Court passed interim order. As a consequence thereof, the said shop rooms have not been allotted in favour of anybody and are still lying vacant. Therefore, Subarnapur Municipality is losing revenue and, as such, construction of shop rooms are in a difficult shape and neither the persons, who have deposited their EMD amount pursuant to said tender notice, have been benefited nor the Subarnapur Municipality. It is further contended that pursuant to tender call notice dated 24.11.2016, even though bidders had participated in the tender process by depositing EMD amount of Rs.50,000/-, no auction could be held because of interim order passed by this Court. It is also contended that some of the bidders

have withdrawn their EMD amount and, as such, they have forgone their rights to participate in the process of tender. On the other hand, pursuant to fresh tender call notice dated 12.03.2020, the petitioners have not deposited any amount, but they have deposited EMD amount of Rs.50,000/- each in connection with tender call notice dated 24.11.2016, which are lying with opposite party no.5.

6. Having heard learned counsel for the parties and after going through the records, it appears that admittedly the petitioners were earning their livelihood by occupying Municipality land at Subarnapur Block chhak and they have been evicted from the said land by the opposite parties. More so, after being evicted, Subarnapur Municipality has constructed shop rooms on the said land and opposite party no.5 issued tender call notice on 24.11.2016 for allotment of said shop rooms. Pursuant to said tender call notice, the petitioners have deposited Rs.50,000/- each for allotment of shop rooms for earning their livelihood. Because of interim order dated 09.01.2017 passed by this Court in W.P.(C) No.22499 of 2016 and connected cases, the said shop rooms cannot be allotted in anybody's favour. The persons, who have deposited EMD amount, have withdrawn their money except the petitioners herein.

7. In the above view of the matter, this Court is of the considered opinion that since the petitioners are the land oustees, they should be rehabilitated by allotting shop rooms in their favour for carrying on business and, as such, they have deposited the EMD amount of Rs.50,000/- each, which have been acknowledged by opposite party no.5. Accordingly, this Court directs opposite party no.5 to allot shop rooms constructed at

Block chhak in front of UP School in favour of the petitioners. If any persons left out, pursuant to advertisement issued by Subarnapur Municipality, participate in the tender process, their case can be considered for allotment of shop rooms in their favour.

8. Both the writ petitions are disposed of accordingly. Interim order stands vacated.

9. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Alok

(B.P. SATAPATHY)
JUDGE

