IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.1743 of 2013

Umakanta Bhoi .... ***Petitioner***

Mr. Deepak Ranjan Sundaray, Adv.

-versus-

The Managing Director, O.S.W.C., Bhubaneswar and Ors.. .... ***Opp. Parties***

Mr.B.K. Dash, Adv.
(for O.P. No.2)
Mr. S.P. Behera, Adv.
(for O.P. Nos.5 and 6)

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

ORDER
06.01.2022

Order No.	
04.	**1**. This matter is taken up through hybrid mode.

2. Heard Mr. Deepak Ranjan Sundaray, learned counsel for the petitioner, Mr. B.K. Dash, learned counsel for the opposite party no.2 and Mr. S.P. Behera, learned counsel for the opposite party nos.5 and 6.

3. The Petitioner has filed this writ petition seeking to quash the entire recovery that has been made with regard to the transit loss value from the billed amount issued in his favour from 05.05.2003 till date considering the facts and circumstances of the case.

4. Mr. Sundaray, learned counsel for the petitioner very emphatically contended that the petitioner is not liable to pay the transit loss value that has been deducted from the billed amount issued in his favour. Therefore, the petitioner has approached this Court by filing this writ petition.

5. Mr. B.K. Dash, learned counsel for the opposite party no.2 contended that as per the provisions contained in clause-XVI(c) of the agreement, any loss caused, recovery shall be made by the authority from the bills itself.

6. Mr. S.P. Behera, learned counsel for the opposite party nos.5 and 6 contended that since the matter is between the petitioner and opposite party nos.1 to 3, the opposite party nos.5 and 6 have nothing to say, though the food grains are stacked in their godown.

7. Having heard the learned counsel for the parties and on going through the records, it appears that the petitioner had been appointed as H & T Contractor at OSWC, Nagenpali by the opposite party nos.1 to 3 and transportation of food grains certain charges have been made as per the agreement executed by the parties. But, when the petitioner submitted the bills, the transit loss has been deducted and rest amount has been paid to him. Such deduction has been made in terms of the clause-XVI(c) of the agreement which reads as follows:

> **"**Any deductions made by the depositors from the bills of the Corporation on account of losses during executing of works by the contractor, excess billing, calculation mistakes etc. will be deducted from the dues of the Contractor."

It also reveals that the claim of the petitioner is not to deduct the transit loss value from the billed amount from 05.05.2003 till date considering the facts and circumstances of the case.

But, it appears that no deduction has been made from the petitioner for the recovery made by FCI from the bills of O.S.W.C. relating to the period of September, 2006 (008335 dated 29.09.2006), January, 2007 (008363 dated 31.01.207, February, 2007 (008369 dated 28.02.2007 and 008372 dated 28.02.2007), as no bills have been submitted by the petitioner.

8. Therefore, if under the agreement there is a clause for deduction to be made from the bills of the Corporation on account of losses which includes the transit loss during execution of work by the contractor, there is no illegality or irregularity by making deduction from the billed amount issued in favour of the petitioner. Therefore, this court is not inclined to entertain this writ petition.

9. Accordingly, this writ petition stands dismissed.

(Dr. B.R. Sarangi)
Judge

(S.K. Panigrahi)
Judge

BJ