

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9552 of 2022

Sukanta Ranjan Panda

Petitioner

....
Mr.Kedar Kumar Dash, Advocate

-versus-

State of Odisha & others

.... ***Opposite Party***
Mr.R.N.Mishra, A.G.A.

**CORAM:
JUSTICE A.K.MOHAPATRA**

**ORDER
13.02.2023**

Order No.

06. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and Mr.S.K.Mishra, learned counsel for Odisha State Civil Supplies Corporation Ltd.- Opposite Party No.2. Perused the Writ Petition as well as the documents annexed thereto.
3. The present Writ Petition has been filed with the following prayer:

“ The Petitioner, therefore prays that Your Lordships be pleased to consider the facts stated in the Writ Petition, issue notice to the Opposite Party as to why a writ of mandamus shall not be issued to declare the proceeding in appropriate and if they fail to show or show insufficient cause, make the rule absolute, quash the proceeding under OPDR Act in OPDR Case No.02 of 2015 under Annexure-2 and/or any other writ/writs, direction/directions,

order/orders as the Hon'ble Court be deem fit and proper in the interest of justice in the given facts and circumstances of the case.”

4. On perusal of records, it appears that the Petitioner approached earlier this Court by filing W.P.(C) No.4620 of 2018 challenging a demand notice dated 24.10.2013 under Annexure-2 as well as the order dated 19.05.2016 under Annexure-1 i.e. the order issuing warrant against the Petitioner for recovery of the demanded dues. Further the Petitioner had approached for granting reasonable time to the Petitioner to repay the demanded amount to the Corporation as per Annexure-2, demand notice. On perusal of the records of the present case, it appears that the demand notice which was filed as Annexure-2 to the previous Writ Petition is Annexure-1 to the present Writ Petition. In the earlier Writ Petition, this Court vide order dated 04.09.2019 passed in Misc.Case No.3959 of 2018 had been pleased to stay the execution of N.B.W against the Petitioner subject to the Petitioner paying Rs.25,00,000/- within eight weeks. Further, it was clarified in the said order that in the event the aforesaid amount of Rs.25,00,000/- as directed by this Court is not paid, the N.B.W. issued against the Petitioner shall be executed. Thereafter, the Petitioner did not deposit the amount. On 10.01.2020 learned counsel for the Petitioner filed a memo before a coordinate Bench of this Court and the coordinate Bench vide order dated 10.01.2020 keeping in view memo filed by the learned counsel for the Petitioner, permitted the Writ Petition to be withdrawn. Thereafter, the present Writ Petition has been filed by the Petitioner with a prayer to quash the proceeding under OPDR Act in OPDR Case No.02 of 2015 under Annexure-1. A perusal of the present Writ Petition, it appears that the demand notice which was under

Annexure-2 in the previous Writ Petition has been filed as Annexure-1 to the present Writ Petition and the order dated 15.05.2016 which was sought to be quashed in the previous Writ Petition as Annexure-1 has been filed as Annexure-2 to the present Writ Petition.

5. Learned counsel for the Petitioner submitted that while finalizing the dues the authority has not given any opportunity to show cause to the Petitioner which was strongly refuted by the learned counsel appearing for the Corporation and referring to the submission of the Petitioner, learned counsel appearing for the Corporation submitted that the Petitioner was participating in the proceeding all throughout and he had been taking time on various grounds and further he was also assuring the Opposite Parties that he will deposit the money if time is granted to him. Accordingly Mr.Mishra, learned counsel appearing for the Corporation submitted that since the present Writ Petition is based on self same cause of action and fact the same is not maintainable in law.

6. At this juncture, learned counsel for the Petitioner submitted that he is ready and willing to resolve the dispute in the context and he has drawn the attention of this Court to the representation filed by the Petitioner dated 28.02.2022 before the Managing Director, Odisha State Civil Supplies Corporation Limited. He further contended that the same is pending before the authority and no decision has been taken as of now.

7. Considering the submissions made by the learned counsel for the parties, this Court, without entering into the merits of the matter, deems it proper to dispose of the matter at the stage of admission by granting last opportunity to resolve the dispute in negotiation with the authority. Accordingly the Managing Director,

Odisha State Civil Supplies Corporation Limited-Opposite Party No.2 or anybody in charge of Opposite Party No.2 Office is directed to consider the representation of the Petitioner under Annexure-4 dated 28.02.2022 within a period of six weeks. He is further directed that the representation of the Petitioner shall be considered and disposed of in accordance with law after providing an opportunity to the Petitioner to put forth his grievance before the authority. The decision so taken shall be communicated to the Petitioner within a week thereafter.

8. In view of the aforesaid direction, no coercive action shall be taken against the Petitioner for a period of six weeks. Thereafter, it is open for the authority to proceed in accordance with law, if the matter is not resolved and the dues as would be finalized upon negotiation are not recovered.

9. With the aforesaid observation the Writ Petition stands disposed of.

10. Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

RKS