

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 9693 of 2022

Sangram Kesari Samal

.....

Petitioners

Mrs. P. Nayak, Advocate

Vs.

***Collector-cum-District Magistrate,
Dhenkanal & Ors.***

.....

Opposite Parties

Mr. P.P. Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR JUSTICE S. K. MISHRA

ORDER

10.08.2022

Order No.

01

This matter is taken up through hybrid mode.

2. Heard Mrs. P. Nayak, learned Counsel appearing for the Petitioner and Mr. P.P. Mohanty, learned Additional Government Advocate appearing for the Opposite Parties.

3. The Petitioner has filed this Writ Petition seeking to issue direction to the Opposite Parties to return the Bid amount of Rs.6,79,000/- with interest, by quashing Annexure-3.

4. Mrs. P. Nayak, learned Counsel appearing for the Petitioner vehemently urged before this Court that pursuant to Public Auction invited by the Opposite Parties for grant of annual lease in respect of Khurunti-Bramhani Sand Sairat for the year 2014-15, the Petitioner participated in the said Auction and being the highest bidder, he deposited the requisite amount, but was not allowed to operate the said Sand Sairat. Therefore, he approached this Court by filing W.P.(C) No.524 of 2015, which was disposed of vide Order dated 16.12.2021 granting liberty to the Petitioner to

approach the Authority for return of money deposited by him as successful bidder in accordance with Rules. In such event, the Authority shall take a decision and communicate the same to the Petitioner by 4th April, 2022. It is contended that though the Petitioner approached the Authority for refund of money, pursuant to direction of this Court, but the Authority, instead of doing so, on the basis of the report of the Tahasildar, Odapada, has imposed penalty of Rs.6,97,000/- on him for illegal extraction of 560 Trips of Sand. It is contended that the Petitioner has not operated the Sand Sairat in question, as no Agreement has been executed between the parties. Therefore, imposition of penalty on the Petitioner is arbitrary and contrary to the provisions of law.

5. Mr. P.P. Mohanty, learned Additional Government Advocate appearing for the Opposite Parties contended that since the Petitioner has unauthorizedly extracted the minerals from the Sand Sairat in question, the Authority has imposed penalty on him on the basis of the report of the Tahasildar, Odapada.

6. Having heard learned Counsel for the parties and after going through the records, this Court finds that disputed question of fact is involved in this case, since on the one hand the Petitioner states that he has not extracted minerals from the Sand Sairat in question due to non-execution of Agreement, on the other hand learned State Counsel states that the Petitioner has unauthorizedly operated the Sand Sairat in question, for which the penalty has been imposed on him. Therefore, this Court is not inclined to enter into the disputed question of facts. However, liberty is granted to the Petitioner to approach the appropriate forum ventilating his grievances, if he is so advised.

7. With the above observation, the Writ Petition stands disposed of.

8. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Alok/Banita

(S. K. MISHRA)
JUDGE

