

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 10045 of 2022

Abanikanta Panigrahi

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Petitioner

Mr. K.A. Guru, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite parties

Mr. P.P. Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

25.04.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. K.A. Guru, learned counsel for the petitioner and Mr. P.P. Mohanty, learned Additional Government Advocate.

3. The petitioner has filed this writ petition seeking to quash the demand notice dated 31.03.2022 issued by opposite party no.3-Tahasildar, Maneswar in Annexure-3.

4. Mr. K.A. Guru, learned counsel for the petitioner contended that in terms of Clause-3 of the agreement, the lessee shall have to pay the royalty, additional charges, surface rent and fees for compensatory afforestation each financial year, before the beginning of the financial year/in advance or quarterly basis or before the first of the beginning of the quarter, and the same was duly acknowledged by the authority and at no point of time, the petitioner has raised objection. But all on a sudden, a demand notice was issued under Annexure-3, with audit observation, calling upon the petitioner to deposit Rs.4,75,920/- as interest for delayed

payment of royalty and other dues with RI, Golabandh as calculated. It is further contended that no reasons have been reflected in the impugned notice.

5. Mr. P.P. Mohanty, learned Additional Government Advocate contended that the petitioner has to pay statutory dues which is admissible to him. Therefore, no illegality or irregularity has been committed by opposite party no.3 in issuing the letter/order dated 31.03.2022 under Annexure-3.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, it appears that the petitioner entered into an agreement with the Government on 01.07.2016. As per Clause-3 of the said agreement, the lessee shall have to pay the royalty, additional charges, surface rent and fees for compensatory afforestation each financial year, before the beginning of the financial year/in advance or quarterly basis or before the first of the beginning of the quarter. As such, the present demand notice issued under Annexure-3 cannot sustain in the eye of law, in view of the fact that since demand has been raised against the petitioner for recovery, pursuant to A.G. audit observation in reference no.7 (OBC-246021) dated 31.03.2021, by 22.04.2022, and if the petitioner is not satisfied with the said demand, he can raise objection before the authority, because detailed calculation of audit report has been enclosed to the notice/letter itself. Instead of making any objection, the petitioner has approached this Court by filing this writ petition. Therefore, this court is not inclined to entertain this writ petition. However, liberty is granted to the petitioner to make objection to Annexure-3. If such objection is filed, the

authority shall consider and pass appropriate order in accordance with law.

7. With the above observation & direction, the writ petition stands disposed of.

Issue urgent certified copy as per rules.

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(**DR. B.R. SARANGI**)
JUDGE

.....
(**SAVITRI RATHO**)
JUDGE

Alok/Puspa



Alok /Puspa

