

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.12829 OF 2008

Sumrit Metalicks Pvt. Ltd., Keonjhar
and another

Petitioner(s)
Mr.K.Jena,Adv.

-versus-

Certificate Officer-cum-Sub-Collector, Champua others

Opposite Party(s)
Mr.S.Ghosh,AGA

CORAM:
JUSTICE BISWANATH RATH

ORDER
28.11.2022

Order No.

05.

1. Heard learned counsel for the Parties.
2. Undisputedly, there has been disposal of W.C. Case No.07 of 2005 under Annexure-17, there is no denial at bar that the order involved herein is appellable. Mr.Jena, learned counsel for the Petitioners further claims entertainability of the Writ Petition on the premises for there is already payment of due compensation to the Petitioners concerned, even in spite of such resistance is made, the Commissioner did not entertain such issue and passed an order contrary to the actual position.
3. For the opinion of this Court the Workmen's Compensation for the provision at Section 30 of the Act provides statutory remedy of Appeal. Looking to the statutory remedy of Appeal, this Court finds, the Appeal remains unentertainable unless the memorandum of Appeal is accompanied by a certificate by the Commissioner to the effect that the Appellant has deposited with him the amount payable under the order appealed against. For statute providing filing such

Appeal on whole deposit of the sum and the grounds raised herein very well available to be agitated in Appeal and adjudicated by the Appellate Authority, this Court finds, avoidance of such Appeal remedy is not permissible. This Court thus declines to entertain the Writ Petition at this stage of matter.

4. For the bonafidely approaching this Court and this Court entertained such application since 2008 and keeping such matter pending here for such long period, this Court though declined to entertain the Writ Petition observes in the event a statutory Appeal is filed along with an the application for condonation of delay being filed undertaking the obstruction for the pendency of the Writ Petition, delay may be condoned and Appeal be heard on its own merit. Provided an Appeal is filed within three weeks and stay of order involved is granted by the Appellate Authority, there may not be any impediment in proceeding with the certificate proceeding involved herein.

(Biswanath Rath)
Judge

Swarna