

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 10747 of 2022

Samarjeet Pattnaik

.....

Petitioner

Mr. S. Padhee, Advocate

Vs.

***Collector-cum-Administrator,
Sambalpur Municipal
Corporation & others***

.....

Opposite Parties

Mr. S.N.Nayak, A.S.C.

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

13.10.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr.S.Padhee, learned counsel for the petitioner and Mr.S.N. Nayak, learned Addl. Standing Counsel.

3. The petitioner has filed this writ petition seeking direction to opposite party No.1-Collector-cum-Administrator, Sambalpur Municipal Corporation to release an amount of Rs.32,84,181/- which was deducted from the monthly bills of the petitioner.

4. Mr. S. Padhee, learned counsel for the petitioner contended that for the selfsame relief the petitioner has earlier approached this Court in W.P.(C) No. 6843 of 2018 and this Court disposed of the said writ petition on 20.08.2018 directing opposite party No.2- Municipal Commissioner, Sambalpur Municipal Corporation to consider and dispose of the representation of the petitioner dated 17.08.2017 (Annexure-9) to the said writ petition in accordance with

the law as expeditiously as possible preferably within a period of four weeks. It is contended that in spite of order passed by this Court and communication made to the concerned authority, the same has not been disposed of. The petitioner subsequently filed representations Annexure-13 to the writ petition and now seeks for a direction to the authority for release of that amount.

5. Mr. S.N. Rath, learned Addl. Standing Counsel contended that the petitioner claims money claim by way of filing the writ petition and in the meantime three years period has already expired. Thereby, the amount claimed is barred by limitation. Apart from this it is also contended that the petitioner for the selfsame relief had approached earlier in W.P.(C) No. 6843 of 2018 and the said writ petition was disposed of on 20.08.2018. If the said order has not been complied with remedy is available to the petitioner to file contempt petition within one year. Even if after expiry of more than three years the present writ petition has been filed to revive the monetary claim made against the opposite parties, which cannot sustain in the eye of law.

6. Having heard learned counsel for the parties and after going through the record, admittedly the petitioner had approached this Court in W.P.(C) No. 6843 of 2018 which was disposed of on 20.08.2018 directing opposite party No.2 to consider the representation of the petitioner dated 17.08.2017 under Annexure-9 to the said writ petition within a period of four weeks. If the order has not been complied with, it was open to the petitioner to file contempt application. It is admitted that no contempt application was filed and from the record it appears that the petitioner has filed series

of representations before the authority to consider his case. Fact remains for the selfsame relief, the petitioner cannot approach this Court twice and more so, if the order of this Court was violated he could have filed contempt application within one year. But after lapse of three years to revive the monetary claim the petitioner cannot approach this Court on plea of pendency of the representation and seeking further direction to dispose of the same. This Court is not inclined to entertain such prayer made by the petitioner in this writ petition. However, it is open to the petitioner to pursue his remedy in accordance with law before the common law forum, if he is so advised.

7. Accordingly, the writ petition is disposed of.

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE

Arun/kishore

