

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7383 of 2008

***National Thermal Power
Corporation***

....

Petitioner

Mr. B.S. Tripathy, Advocate

-versus-

State of Orissa and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A.

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK**

**ORDER
15.02.2022**

Order No.

11. 1. National Thermal Power Corporation (NTPC) is before this Court with the present petition questioning a demand raised by the Government of Odisha in the letter of the Tahasildar, Talcher dated 13th April, 2006 calling upon NTPC to make a consolidated payment of Rs.5,27,70,397/- of which, the major component of Rs.5,01,41,197/- was “interest on premium, ground rent and cess from 1988-89 to 2004-05”.
2. The admitted position is out of 109 acres of land belonging to the Irrigation Department in the Rengali Irrigation Project, 75.61 acres was recorded in favour of the Irrigation Department. The Irrigation Department is stated to have subsequently relinquished the lands in favour of the Revenue Department in 1991. The land to an extent of 34.39 acres in two villages i.e. Rasol and Tolakabeda were handed over to NTPC in 1988. As per the tabulation given in the counter

affidavit filed by the State Government, NTPC had filed applications for these two patches of land in 1986 and 1990. However, the lease appears to have been sanctioned only on 20th March, 2004 (for Rasol land) and 30th March, 2005 (for land in Tolakabeda).

3. For five other patches of land, the applications were made in 2003 and 2004 and the lease was sanctioned on 28th March, 2005. According to the State Government, it is only when the audit objection was received, they woke up to the fact that interest should be paid on the premium amount by the NTPC at the time of sanction of the lease. That is how the impugned demand was raised.

4. The grievance of the NTPC is that the demand itself is belated and arbitrary. It was suddenly sprung on NTPC despite their having paid the premium amount as and when demanded. It is urged by Mr. B.S. Tripathy, learned counsel appearing for the NTPC, that if the State Government had raised the demand for premium soon after possession was handed over, NTPC would have made such payment then and there.

5. It must be mentioned at this juncture that on 22nd August 2008, this Court directed that no coercive action would be taken against the NTPC subject to it depositing 50% of the amount indicated in Annexure-22 towards interest. It appears that said amount however has never been paid. Instead NTPC filed Misc. Case No.11576 of 2008 offering that they would

submit a bank guarantee instead. For some reason, that Misc. Case was never listed for orders. As a result, the interim order dated 22nd August 2008 has not been complied with by the NTPC till date. At the same time, the State Government also does not appear to have taken any steps to recover the amount against Annexure-22.

6. Keeping in view all the above factors, the Court directs as under:

(i) NTPC will pay the State Government i.e. to the Tahasildar, Talcher (Opposite Party No.4), 50% of the demanded interest amount as per Annexure-22 i.e. 50% of Rs.5,01,41,197/- (five crore one lakh forty one thousand one hundred ninety seven) as well as the incidental charges of Rs.26,29,000/- (twenty six lakh twenty nine thousand) together with 6% simple interest on the said amount from 22nd August 2008 till the date of payment which shall not be later than 4th April 2022.

(ii) Upon the above payment being made, no further demands will be raised by the State Government against the NTPC and the matter will be treated as closed.

(iii) If the payment is not made within the time stipulated, penal interest @ 9% simple interest per annum for the period will be paid by the NTPC to the State Government.

(iv) If there is default in complying with the any of the above directions, it will be open to the State Government to enforce Annexure-22 in accordance with law.

7. The writ petition is disposed of in the above terms. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Guin

