

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 11622 of 2022

Tapan Kumar Sethy

.....

Petitioner

*Mr. Amitav Das along
with Ms. M.M. Mohanty, Advocate*

Vs.

State of Odisha & Ors.

.....

Opposite parties

*Mr. P.P. Mohanty, AGA,
(O.P.1)
Mr. S.K. Mishra, Advocate
(O.Ps.2-4)*

CORAM:

**DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO**

**ORDER
09.05.2022**

Order No.

1

This matter is taken up through hybrid mode.

2. Heard Mr. Amitav Das, learned counsel for the petitioner; Mr. P.P. Mohanty, learned Additional Government Advocate for opposite party no.1, and Mr. S.K. Mishra, learned counsel appearing for the Odisha State Civil Supply Corporation Ltd.

3. The petitioner has filed this writ petition seeking to quash the Notice Inviting Tender No.1239 dated 22.04.2022 under Annexure-1 and to direct the opposite parties to issue fresh tender by removing the defects pointed out in the writ petition in accordance with law.

5. Mr. Amitav Das, learned counsel for the petitioner contended that office of opposite party no.4-District Manager, Odisha State Civil Supplies Corporation Ltd., Balasore invited a tender vide Notice Inviting Tender No.1239 dated 22.04.2022 for selection and appointment of Level-II Contractor for

transportation of Custom Milled Rice (CMR) from Receiving Centre (RRC) to Retain Centre for Balasore district for the years 2021-22 and 2022-23. It is contended that since NIT was issued on 22.04.2022, the tender period for the year 2021-22 has already elapsed and so far as year 2022-23 is concerned, two to three months have been over and another two to three months will be lost in completing the tender process.

6. Mr. S.K. Mishra, learned counsel appearing for the Corporation contended that since tender notice was issued on 22.04.2022 for the year 2021-22 and 2022-23 and the petitioner has already participated in the tender process, for which the claim made by the petitioner cannot sustain in the eye of law.

7. Mr. P.P. Mohanty, learned Additional Government Advocate for opposite party no.1 contended that since it is a matter between the Corporation and the petitioner, the State has no role to play, though the State is controlling authority of the Corporation.

8. Having heard learned counsel for the parties and after going through the records, it appears that office of opposite party no.4-District Manager, Odisha State Civil Supplies Corporation Ltd., Balasore invited tenders vide Notice Inviting Tender No.1239 dated 22.04.2022 for selection and appointment of Level-II Contractor for transportation of Custom Milled Rice (CMR) from Receiving Centre (RRC) to Retain Centre for Balasore district for the year 2021-22 and 2022-23. Even though the tender notice was issued on 22.04.2022, but it had been floated for the year 2021-2023. Therefore, the tender period for the year 2021-22 has been expired. On query being made by this Court, Mr. S.K. Mishra, learned counsel for the Corporation very fairly stated that the tender relates to the financial year, which starts from 1st April,

2021 and ends on 31st March, 2022 and from 1st April, 2022 to 31st March, 2023. Therefore, the period for the year 2021-22 has already elapsed. Thereby, it is contended that the Corporation will issue a fresh corrigendum. However, this Court is not concerned whether fresh corrigendum will be issued or not. At the outset, this Court is of the view that the issuance of tender has not been made in proper perspective, as the period of the year 2021-22 has already elapsed and the period of the year 2022-23 has already started. If the tender process starts from 2021-22, it will not be completed within one year, as the said period has already expired. Therefore, the authorities are not careful about the issuance of tender and in a camouflage manner and arbitrarily, unreasonably and without application of mind, they have issued the tender. Thereby, the Notice Inviting Tender under Annexure-3 dated 22.04.2022 cannot sustain in the eye of law. Therefore, the same is liable to be quashed and is hereby quashed. However, quashing of the Notice Inviting Tender will not disable the issuance of fresh tender in accordance with law.

9. With the above observation, the writ petition stands disposed of.

Issue urgent certified copy as per rules.

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

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