

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.772 of 2019

J.B.S. Construction Private Petitioner
Limited represented
through its Managing
Director: Pravanjan
Senapati

Mr. Prabodha Ch. Nayak, Advocate

-versus-

Dr. Krishan Kumar working Opp. Parties
as Commissioner-cum-
Secretary, Works
Department Govt. of
Odisha, Bhubaneswar and
Others

Mr. Lalatendu Samantaray, AGA

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. RAMAN

ORDER (Oral)
07.03.2022

Order No.

- 12.** **1.** This matter is taken up by virtual/physical mode.
- 2.** The present Contempt petition has been preferred by the Petitioner contending that the direction of this Court in W.P.(C) No. 13737/2018 dated 19.12.2018 has not been complied by the Opposite Parties.
- 3.** The brief facts of the case were that the Petitioner i.e. JBS Construction Pvt. Ltd. had filed a Writ Petition W.P.(C) No.13737/2018 before this Court with a prayer to quash the circular of Works Department issued by the Opposite Party No.1 i.e. Commissioner-Cum-Secretary, Works Department, Govt. of Odisha, Bhubaneswar vide office memorandum no. 12606 dated

24.12.2012 and for refund of deducted amount from the Petitioner by the Opposite No.3 i.e. Executive Engineer, Nayagarh Division for the project of widening & strengthening of Baghmari-Gania-Daspalla road vide agreement no. 70 of 2014-15 towards differential cost.

4. This Court vide order dated 19.12.2018 allowed the Writ Petition and thereby quashed the circular dated 24.12.2012 as the said circular was not an independent office memorandum but was an amendment to the earlier works department circular dated 03.04.2007 which was already quashed by this Court vide order dated 06.07.2012 in the case of **All Odisha Contractor's Association v. State of Odisha**, (2012) (II) OLR 586. It also held that no transactions relating to circular 24.12.2012 stand valid. Hence, any deduction made from the bills of the Petitioner or payment made to the Contractor is to be refunded/adjusted by Department or the Petitioner within a period of three months from the date of receipt of a certified copy of this order.

5. The Petitioner submitted the certified copy of this order to the Opposite Party No.3 i.e. Executive Engineer, Khurda on 29.12.2018 which was received on 01.01.2019 to carry out the orders of this Court dated 19.12.2018. The Opposite Party No.3 intimated the Opposite Party No.2 to refund the amount to the Petitioner on 28.01.2019 within a period of three months from 01.01.2019.

6. Heard the parties at length.

7. It is the case of the Petitioner that the Opposite Parties have yet not provided the refund in-spite of the expiry of the stipulated period and thereby violated the directions of this Court in W.P.(C) No. 13737/2018 dated 19.12.2018.

8. The Opposite Parties vide Memo No. 8492 dated 16.06.2021 has provided before us that a total amount of Rs.1,16,685/- was due to the Petitioner. However, the final net amount to be paid was calculated to be Rs.1,07,350/- which was paid vide his office Cheque No. 16974 dated 16.06.2021. Further, the Opposite Party No. 1 vide his Compliance Affidavit has also provided that all the dues of the Petitioner have been paid to the Petitioner.

9. In view of the above affidavit by the Opposite Party-Tahsildar, we find that the order dated 19.12.2018 has been complied with by the Opposite Parties. Further, vide this Contempt petition we cannot decide the other issues raised by the Petitioner. Hence, the Contempt petition is disposed of as infructuous.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

March 7th 2022
Cuttack

AKPradhan