

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 11714 of 2018

Shankar Prasad Jain

.....

Petitioner

Mr. P.C. Nayak, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Mr. T. Patnaik, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

Mr. JUSTICE SANJAY KUMAR MISHRA

ORDER

24.06.2022

Order No.

05

This matter is taken up through hybrid mode.

2. Heard Mr. P.C. Nayak, learned counsel for the petitioner and Mr. T. Patnaik, learned Additional Standing Counsel for the State.

3. The Petitioner has filed this writ petition seeking to quash the letter dated 26.04.2018 of the opposite party no.4, whereby the EMD amounting to Rs.31,31,900.00 was forfeited and the petitioner further seeks direction to opposite party no.4 to refund the EMD amount of the petitioner deposited for the work “Widening and strengthening of Sinapali-Ghatipada road from 0/000 Km to 16/000 Km under CRF” vide Bid Identification no. CE-DPI & R-35/2017-18.

4. Mr. P.C. Nayak, learned counsel for the petitioner contended that similar question was there before this Court in the case of *Sanjay Kumar Rout v. State of Odisha and others*, 2018 SCC OnLine Ori 326 and relying on the said judgment, this Court has also disposed of W.P.(C) No. 31269 of 2011 vide order dated 20.07.2021 (*Susanta Kumar Bisoyi v. State of Orissa and others*). In view of such position, he may be permitted to approach the authority concerned relying on the aforesaid judgments for refund of the EMD amount.

5. Mr. T. Patnaik, learned Additional Standing Counsel contended

that if the question has already been decided by this Court, let the petitioner approach the authority concerned by enclosing such decisions, so that the matter can be considered and disposed of by the authority concerned in accordance with law.

6. Having heard learned counsel for the parties and after going through the record, since the question of refund of EMD amount has already been decided by this Court in the decisions stated above, the writ petition stands disposed of permitting the petitioner to pursue his remedy before the appropriate authority by citing the aforementioned decisions. In the event the petitioner approaches the authority concerned, the same shall be considered and disposed in accordance with law, keeping in view the aforementioned decisions, within a period of four months from the date of filing of such application before the authority concerned, along with a certified copy of this order.

7. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE

Arun/Banita