

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 18631 of 2017

Kirtan Das

.....

Petitioner

Mr. S. Satpathy, Adv.

Vs.

State of Odisha and Ors.

.....

Opposite parties

Mr. P.P. Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

05.04.2022

Order No.

04.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Satpathy, learned counsel for the petitioner and Mr. P.P.Mohanty, learned Addl. Government Advocate for the State-opposite parties.

3. The petitioner has filed this writ petition seeking to quash the fresh advertisement dated 16.05.2017 published by the opposite party no.3 vide Annexure-7 for further long term lease of the said Sairat Sources, i.e. Benigohiri-1 stone quarry in the district of Ganjam, and to issue direction to the opposite party no.3 to extend his co-operation in obtaining the approved mining plan and environmental clearance, and to sign the lease deed and issue work order for the Benigohiri-1 Sairat Source in the district of Ganjam. He further seeks direction that in the event his deed is cancelled, the E.M.D. amount of Rs.77,565.00 be refunded to the petitioner.

4. Mr. S. Satpathy, learned counsel for the petitioner contended that the petitioner was granted with long term lease for a period of five years, pursuant to Annexure-1 dated 18.11.2015, for the period from the year 2015-16 to 2019-20. In the meantime, the said period has been elapsed because of non-grant of environmental clearance and, as such, the petitioner is not able to operate the quarry, even though he

deposited the EMD amount as required pursuant to such advertisement. But when the lease of the petitioner was subsisting, a fresh advertisement was issued by the authority and, therefore, the petitioner has approached this Court by filing the present writ petition.

5. Mr. P.P.Mohanty, learned Addl. Government Advocate for the State contended that the period of lease pursuant to Annexure-1, having been expired, fresh advertisement has been issued vide Annexure-7 dated 16.05.2017. Challenging the same, the petitioner has approached this Court and, while entertaining the same, this Court did not feel inclined to pass any interim order and granted liberty to the opposite parties to proceed with the matter. Therefore, if the petitioner has any grievance with regard to refund of EMD amount, he shall have to approach the appropriate authority in terms of the detail tender call notice, which shall be considered in accordance with law.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner was applicant pursuant to the advertisement dated 18.11.2015 for grant of lease for a period of five years, i.e., 2015-16 to 2019-20. Pursuant to such advertisement, the petitioner participated in the auction and on being qualified he was called upon to deposit the E.M.D. amount of Rs.77,565/-. Though he applied for grant of environmental clearance, the same was not made available to him well within the time specified, for which he could not operate the said quarry. But due to delay in obtaining the Environmental Clearance and also the Mining Plan, the petitioner was deprived of to operate the quarry, even though his EMD was accepted by the authority. When the matter stood thus, at that point of time, fresh advertisement was issued on 16.05.2017 for grant of lease for a period of five years, i.e., from the year 2017-18 to 2021-22, which he challenged in the present writ petition. But while

entertaining the writ petition, no interim order was passed by this Court and, as such, the process of granting lease has been completed by the authority, pursuant to such advertisement, and in the meantime five years period is going to expire. In any case, since the petitioner has deposited the EMD amount, he is at liberty to make an application in terms of the detail tender call notice within a period of 15 days hence, so that the authority can consider the same and pass appropriate order with regard to refund of EMD amount of the petitioner in accordance with law within a period of eight weeks from the date of filing of such application.

7. With the aforesaid direction, the writ petition is disposed of.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok/Puspa

