

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 19779 of 2021

Arun Kumar Ray

.....

Petitioner

Mr.N.K. Sahu, Advocate.

Vs.

State of Odisha and others

.....

Opposite parties

Mr. P.P. Mohanty, AGA &

Mr. M. Kanungo, Sr. Advocate along with

Mr. C.K. Nayak, Advocate (O.P.5)

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

29.04.2022

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr. N.K. Sahu, learned counsel for the petitioner; Mr. P.P. Mohanty, learned Additional Government Advocate; and Mr. M. Kanungo, learned Senior Advocate along with Mr. C.K. Nayak, learned counsel for opposite party no.5.

3. The petitioner has filed this writ petition challenging the order dated 12.05.2021 passed by the Sub-Collector, Dhenkanal in OMMC Appeal No. 1/2021 under Annexure-9 to the writ petition.

4. Mr. N.K. Sahu, learned counsel for the petitioner vehemently contended that the petitioner was one of the bidders and the bid had been finalized in his favour. His name also finds place at page-3 of the impugned order. It has also been pleaded by the Government Pleader before the appellate authority that without hearing the successful bidder, the matter should not have been disposed of. The contention of the Government pleader as has been indicated in the impugned order is as follows:-

“The learned Government Pleader on behalf of the Tahasildar, Gondia submitted that, as per the order dtd. 23.12.2020 of this court passed in OMMC Appeal No.2/2020 (Arun Kumar Ray-Vs-Tahasildar & another), the Tahasildar, Gondia has already accepted the bid of Arun Kumar Ray and necessary documents has been executed as per the OMMC Rules. According to the Govt. Pleader, Dhenkanal, Arun Kumar Ray is a necessary party in the present appeal and in absence of the Arun Kumar Ray no effective order can be passed. As per the records, Arun

Kumar Ray was the 3rd highest bidder whereas M/S. PREMEX was 2nd highest bidder. In view of the above facts, the presence of Arun Kumar Ray is not necessary to dispose of the present appeal.”

According to learned counsel for the petitioner, even though it was pleaded before the Sub Collector by the Government Pleader, that without impleading the present petitioner if the matter will be disposed of there will be non compliance of principle of natural justice, however, without hearing the petitioner, the appeal was disposed of.

5. Having heard learned counsel for the parties and after going through the records, this Court is of the opinion that when it was brought to the notice of the Sub Collector that the petitioner in whose favour the bid has been finalized, has not been made a party in the appeal, in that event, it is prudent on the part of the Sub Collector to direct for impletion of the petitioner as a party and give him opportunity of hearing to him before disposing of the appeal. Without hearing the petitioner, the appeal could not have been disposed of by the Sub-Collector in the impugned order.

6. In that view of the matter the order dated 12.05.2021 passed by the Sub-Collector, Dhenkanal in OMMC Appeal No. 1/2021 under Anenxure-9 is set aside and the matter is remitted back to the Sub-Collector, Dhenkanal to give opportunity of hearing to the parties including the petitioner and dispose of the same afresh in accordance with law, within a period of two months from the date of communication of the order.

7. The writ petition is accordingly disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun/Bichi

(SAVITRI RATHO)
JUDGE