

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.14545 of 2018

<i>Steel Authority of India Ltd.</i>		<i>Petitioner</i>
		<i>Mr. J. Patnaik, Sr. Advocate along with Ms. S. Patnaik, Advocate</i>
	Vs.	
<i>Union of India & Ors.</i>		<i>Opposite Parties</i>
		<i>Mr. D.R. Bhokta, CGC (O.P.1)</i>
		<i>Mr. P.P.Mohanty, AGA (O.Ps.2-4)</i>

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

02.12.2022

Order No.

9

- This matter is taken up through hybrid mode.
2. Heard Mr. J. Patnaik, learned Senior Counsel appearing along with Ms. S. Patnaik, learned counsel for the petitioner and Mr. P.P. Mohanty, learned Additional Government Advocate appearing for the State-opposite parties.
 3. The petitioner has filed this writ petition seeking to quash the circular No.5905/SM dated 07.09.2010 under Annexure-1 issued by opposite party no.2 being ultra vires the provisions of MMDR Act and Mineral Concession Rules, 1960 and further to quash the demand of differential royalty raised under Annexures-6 & 7 by the State Government pursuant to circular dated 07.09.2010.
 4. Mr. J. Patnaik, learned Senior Counsel appearing for the petitioner contended that the petitioner does not want to pursue its

remedy in terms of the circular dated 07.09.2010 issued by the State Government. It is further contended that during pendency of this writ petition, the State Government has issued fresh notification on 02.08.2022 under Annexure-22, which the petitioner has filed by way of an affidavit. Therefore, he contended that the grievance of the petitioner, as claimed in the writ petition, be considered in terms of Clause-d of the aforesaid notification, which reads as follows:

“d. In case of the lessees permitted exemption from stacking and sampling under the first proviso to rule 10(7) of OMPTS Rules’ 2007, royalty shall be charged on the basis of rates of the highest grade of ROM/Lumps/CLO/Fines, as the case may be, under the Second Schedule of the Act”. ”

5. Mr. P.P. Mohanty, learned Additional Government Advocate appearing for the State-opposite parties contended that the circular dated 07.09.2010 issued by the State Government has been upheld by this Court in *M/s. Mideast Integrated Steel Limited v. State of Odisha represented through its Secretary, Department of Steel & Mines, Bhubaneswar* (W.P.(C) No.17403 of 2012, decided on 16.12.2015) which has been confirmed by the apex Court.

6. Having heard learned counsel appearing for the parties and after going through the records, this Court finds that since the petitioner does not want to pursue its remedy in terms of the circular dated 07.09.2010 and, as such, the facts of *M/s. Mideast Integrated Steel Limited* (supra) is distinguishable from the present case, learned Senior Counsel appearing for the petitioner contended that the petitioner may be permitted to approach the authority concerned by filing a fresh representation ventilating his grievances in terms of Clause-d of the notification dated

02.08.2022 under Annexure-22 issued by the State Government, to which learned Additional Government Advocate has no objection.

7. In the above view of the matter, this Court permits the petitioner to file a fresh representation before the authority concerned within a period of two weeks from today. In the event the petitioner files such representation ventilating its grievances, as has been agitated in the writ petition, the authority shall consider the same in terms of Clause-d of the notification dated 02.08.2022 under Annexure-22 and pass appropriate order within a period of two months thereafter.

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

9. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(B.P. SATAPATHY)
JUDGE