

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.17224 of 2022

***Shree Equipments and
Engineers, Keonjhar***

.....

Petitioner

Mr. N. Lenka, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite Parties

Mr. P.K. Muduli, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

31.10.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. N. Lenka, learned counsel for the petitioner and Mr. P.K. Muduli, learned Additional Government appearing for the State-opposite parties.

3. The petitioner has filed this writ petition seeking to quash the orders dated 19.08.2021 under Annexure-24 and dated 30.06.2022 under Annexure-27 passed by the Tahasildar, Hatadihi and Sub-Collector, Anandapur respectively, and further to issue direction to the State-opposite parties to settle Gobindpur Sand Sairat under Hatadihi Tahasil in the district of Keonjhar appertaining to Plot No.494 Ac.13.00 decimals (out of Ac.46.45 decimals) in favour of the petitioner by way of granting quarry permit.

4. Mr. N. Lenka, learned counsel for the petitioner contended that the petitioner had applied for quarry permit as per Rule-34 of OMMC Rules, 2016. Due to delay in disposal of the said

application, he approached this Court by filing W.P.(C) No.21811 of 2020, which was disposed of vide order dated 10.09.2020 with a direction to the opposite party-authority to dispose of the application for grant of quarry permit of the petitioner along with similar applications, if any, in accordance with law within a period of eight weeks. In compliance thereof, the application of the petitioner was considered and rejected. But in the meantime, the said quarry was put to auction by issuing auction notice vide Annexure-19 dated 25.08.2020. Challenging the said auction notice, the petitioner approached this Court by filing W.P.(C) No.25969 of 2020, which was disposed of, vide order dated 23.06.2021, with the observation that if fresh public auction is held, the petitioner will be entitled to participate along with all other eligible persons and if becomes unsuccessful in the auction, the petitioner will seek appropriate remedies available to it in accordance with law. It is contended that the petitioner did not participate in the process of auction and thereafter the petitioner approached this Court by filing W.P.(C) No.18536 of 2021 and this Court, vide order dated 08.07.2021, directed the matter to be placed before the Tahasildar on 02.08.2021, on which date the petitioner shall remain present with a downloaded copy of the order, a written note of its submissions and documents that it wishes to file. In compliance thereof, the petitioner filed written notes of submissions to the Tahasildar, Hatadihi, who rejected the claim of the petitioner. Therefore, the petitioner again approached this Court by filing W.P.(C) No.28932 of 2021, which was disposed of on 10.03.2022 permitting the petitioner to pursue its remedy before the appropriate forum. Accordingly, the petitioner

filed appeal before the Sub-Collector under Section 46 of Odisha Mines and Minerals Concession Rules, 2016. The Sub-Collector, Anandapur disposed of the said appeal, vide order dated 30.06.2022, after giving due opportunity of hearing to the petitioner, rejecting the claim of the petitioner for grant of quarry permit by justifying the action taken by the Tahasildar, Hatadihi. It is further contended that such action of Tahasildar, Hatadihi and Sub-Collector, Anandpur cannot sustain in the eye of law and the same are liable to be quashed and the petitioner may be permitted to participate in the fresh auction to be held by the opposite-party authority.

5. Mr. P.K. Muduli, learned Additional Government Advocate appearing for the State-opposite parties contended that even though the petitioner had applied for grant of quarry permit in 2018 as per Rule-34 of OMMC Rules, 2016, but on the basis of the direction of this Court, the Tahasildar, Hatadihi, vide order dated 19.08.2021, considered the application of the petitioner and rejected the same. Thereafter, pursuant to order dated 10.03.2022 passed by this Court in W.P.(C) No. 28932 of 2021, the petitioner filed an appeal before the Sub-Collector, Anandpur against the order passed by the Tahasildar, Hatadihi and the Sub-Collector, Anandpur, vide order dated 30.06.2022, passed a reasoned order rejecting the claim of the petitioner. Therefore, no illegality or irregularity has been committed by the Tahasildar, Hatadihi and the Sub-Collector, Anandpur in rejecting the claim of the petitioner.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, this Court called

upon learned counsel for the petitioner to assist this Court to the extent that even though the petitioner made application for grant of quarry permit, whether it has got a right to be considered over and above the others who participated in the auction, learned counsel for the petitioner could not be able to point out any provisions of law. Be that as it may, even though the petitioner made an application for grant of quarry permit, no right has been accrued in its favour unless the quarry is decided to be allotted in its favour. Thereby, since no right has been accrued, the petitioner should not have said that the application is pending and the same is to be considered. In any case, against the order dated 19.08.2021 passed by the Tahasildar, Hatadihi, the petitioner filed appeal before the Sub-Collector, Anandpur, who passed a reasoned order on 30.06.2022 confirming the order passed by the Tahasildar, Hatadihi rejecting the claim of the petitioner.

7. In that view of the matter, this Court does not find any error in the orders dated 19.08.2021 and 30.06.2022 passed by the Tahasildar, Hatadihi and Sub-Collector, Anandpur respectively rejecting the claim of the petitioner. Accordingly, the writ petition merits no consideration and the same is dismissed.

(DR. B.R. SARANGI)
JUDGE

(B.P. SATAPATHY)
JUDGE

Alok