

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 17553 of 2022

Suryanarayan Mohanty

.....

Petitioner

Mr. S.K.Dash, Advocate.

Vs.

State of Odisha & others

.....

Opposite Parties

Mr. D.Nayak, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

30.08.2022

Order No.

05.

This matter is taken up through hybrid mode.

2. Heard Mr. S.K.Dash, learned counsel appearing for the petitioner and Mr. D.Nayak, learned Addl. Government Advocate appearing for the State-opposite parties.

3. The petitioner has filed this writ petition to quash the Office Order No. 2378 dated 7.7.2022 under Annexure-1 in cancelling the contract agreement No. 71 P1 dated 2.3.2020 for the work “Construction of HL Bridge over Jamuna at 10.250 Kms on Saharapada-Machhagarh Road in the district of Keonjhar under BSY for the year 2021-22” and further seeks to quash the stipulation for imposing liquidated damage @ 10% of the initial contract price for delay and penalty @ 20% of the leftover work and to recommend for black listing by the license authority and to block the DSC and to issue direction to the opposite parties to permit the petitioner to execute the balance work as requested on 30.9.2022 and to release the bills for the work already executed enabling the petitioner to achieve the balance work smoothly in the public interest.

4. Mr. S.K.Dash, learned counsel for the petitioner contended that while entertaining this writ petition, this Court, vide order dated 18.7.2022, has made an observation that the Office Order dated 7.7.2022 issued by the authority is without application of mind, which cannot sustain in the eye of law, and consequentially the demand

raised for payment of damages and imposition of penalty also cannot sustain in the eye of law. The petitioner has also relied upon the judgments of this Court in the cases of M/s Famous Security Services v. State of Odisha, 2020 (I) OLR 992 and M/s Durga Electricals and Electronics v. Mahanadi Coalfields Limited, 2022 (I) OLR 601. With these observation, this Court called upon the State Counsel to obtain instructions in the matter by the next date. Thereafter, the matter was listed on 26.07.2022, 08.08.2022 and 16.08.2022 and in all these dates, learned State Counsel sought time to comply the order dated 18.07.2022. It is contended that in the meantime, certain developments have been taken place, as the application filed by the petitioner for grant of extension of time to execute the balance work has been considered and duly recommended by the Chief Construction Engineer, R.W. Circle, Keonjhar to the Chief Engineer (Building and Bridges), Rural Works, Odisha, Bhubaneswar vide letter dated 25.08.2022 vide Annexure-18, which has been placed on record by way of an affidavit on 30.08.2022. Therefore, it is contended that since the case of the petitioner has already been considered and recommended for extension of time to complete the balance work by December, 2022, the interest of justice will be best served if a direction is issued to the opposite parties to consider the recommendation and pass appropriate order in accordance with law.

5. Mr. D. Nayak, learned Addl. Government Advocate contended that in spite of correspondences made to the opposite parties, till date no instructions has been received. But since the case of the petitioner has already been recommended by the Chief Construction Engineer, R.W. Circle, Keonjhar to the Chief Engineer (Building and Bridges), Rural Works, Odisha, Bhubaneswar vide letter dated 25.08.2022 as at Annexure-18, the writ petition may be disposed of directing the authority to consider the same and pass appropriate order in

accordance with law.

6. Having heard learned counsel for the parties and after going through the records, this writ petition stands disposed of directing Chief Engineer (Building and Bridges), Rural Works, Odisha, Bhubaneswar to act upon the recommendation made by the Chief Construction Engineer, R.W. Circle, Keonjhar on 25.08.2022 for grant of extension of time to complete the balance work by end of December, 2022 and pass a reasoned and speaking order as expeditiously as possible, preferably within a period of 15 days from the date of communication/production of certified copy of this order, so that the petitioner can complete the work within the time specified by the authority concerned.

Issue urgent certified copy as per rule.

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE

Ashok/Kishore

