

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 16963 of 2019

M/s Biraja Construction

.....

Petitioner

Mr. P.C. Nayak, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. P.P. Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

13.12.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard Mr. P.C. Nayak, learned counsel for the petitioner and Mr. P.P. Mohanty, learned Additional Government Advocate for the State.

3. The petitioner has filed this writ petition seeking direction to opposite party no.4 to make payment of enhanced/increased labour charges, as per Notification of Labour and Employment Department under Annexure-2 for the work "Improvement to Alaka Drainage System (Phase-I) under NABARD Assistance (RIDF-XVI), Bid Identification No. CE-DR-CTC-02/2011-12" vide agreement No. 512F2 of 2011-12 within a stipulated period.

4. Mr. P.C. Nayak, learned counsel for the petitioner contended that as per Clause-31 (b) of the agreement, the petitioner is entitled the enhanced labour charges, but the same has been denied on the plea that no such condition has been stipulated in the agreement.

5. Mr. P.P. Mohanty, learned Additional Government Advocate contended that since there is no condition stipulated in the agreement itself, the petitioner is not entitled to get the benefit.

6. Having heard learned counsel for the parties after going through the record, it appears that the agreement was executed between the petitioner and the opposite parties. As per clause 31 (b) of the agreement, price adjustment for labour will be made only if there is only increase or decrease in the minimum wages of Rs.55.00 fixed by the State Government. The notification issued by the Labour & ESI Department dated 06.10.2012 under Annexure-2 stipulates that such benefit is admissible to the petitioner.

7. It has also been brought to the notice of this Court that similar question had come up for consideration before this Court in the case of **Sanjaya Jain v. State of Odisha and others**, AIR 2022 Orissa 183. In paragraph-13 of the judgment, it has been stated as follows:-

“In view of such position, the action of the Authorities in refusing to grant the benefit of escalated labour cost to the Petitioner cannot have any justification and, as such, the Petitioner is entitled to get the differential labour cost, as per the Notification dated 06.10.2012 in Annexure 4. Therefore, the Opposite Parties are directed to calculate the differential labour cost and pay the same to the Petitioner as expeditiously as possible, preferably within a period of four months from the date of communication of this Judgment.”

8. In view of the aforesaid observation made by this Court and taking the very same notification dated 06.10.2012 since the benefit has been extended to one Sanjaya Jain, there is no reason not to extend such benefit to the petitioner. Thus, this court directs the opposite parties to extend the increased labour charges to the petitioner in terms of the Clause 31 (b) of the agreement read with notification dated 06.10.2012 under Annexure-2, taking into consideration the ratio decided by this Court in the case of **Sanjaya Jain** (supra). The entire exercise shall be

completed as expeditiously as possible, preferably within a period of three months from the date of communication of the order.

9. With the above observation/direction, the writ petition stands disposed of.

10. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Arun

(B. P. SATAPATHY)
JUDGE

