

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 2792 of 2016

Gadadhar Mishra

.....

Petitioner

*Mr. Anshuman Ray, Advocate
appearing on behalf of
Mr. D.P. Dhal, Sr. Advocate*

Vs.

State of Orissa and others

.....

Opposite parties

Mr.T. Patnaik, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

Mr. JUSTICE SANJAY KUMAR MISHRA

ORDER

27.06.2022

Order No.

05

This matter is taken up through hybrid mode.

2. Heard Mr. Anshuman Ray, learned counsel on behalf of Mr. D.P. Dhal, learned Senior Advocate for the petitioner and Mr. T. Patnaik, learned Additional Standing Counsel for the State.

3. The petitioner files this writ petition seeking to quash the letter dated 17.10.2015 under Annexure-6 and further to direct opposite parties 2 and 3 to pay the dues of the petitioner, i.e. interest on the delayed payment made to the petitioner along with the withheld amount of Rs.74,003.00 as detailed in Annexure-5 series.

4. Mr. Ray, learned counsel for the petitioner contended that the petitioner is entitled to get the said benefits, therefore, he has already filed a representation vide Annexure-5, wherein he has specifically indicated that this Court vide order dated 13.12.2006 in W.P.(C) No. 7032 of 2006 issued direction to the Chief Engineer & Basis Manager, Upper Mahanadi Basin, Burla to release the payment to the tune of Rs.19.13 lakhs as per Annexure-2 to the writ petition. Instead of acting according to the order of the Court, the said opposite parties

disputed the matter in Misc. Case No. 2347 of 2007 with an arbitrary appeal to reduce the awarded amount to Rs.18,38,997.00 from Rs.19.13 lakh. But due to delay in payment, he is entitled to get the interest. Therefore he filed Misc. Case No. 16390 of 2009 for payment of interest @ 18% since 01.07.1991 on his long pending legitimate dues of Rs.19.13 lakhs and payment of balance amount of Rs. 74,003.00.

5. Mr. T. Patnaik, learned Additional Standing Counsel for the State disputed such amount and contended that if the order of this Court dated 13.12.2006 passed in W.P.(C) No. 7032 of 2006 has not been complied with, in that case, the petitioner should have approached this Court by filing contempt petition. More so, this is purely a money claim, which has been made from the year 1991 and though the order was passed by this Court on 13.12.2006, however to legalize the same, the petitioner has filed the present writ petition. According to him, in the counter affidavit, at paragraph-6, the opposite parties have disputed such fact of entitlement of the petitioner. Therefore, the claim made by the petitioner cannot be admissible to him.

6. Having heard learned counsel for the parties and after going through the records, since the petitioner claims for money claim long after the limitation period expires, by way of invoking Article 226 of the Constitution of India, the same cannot be regularized and the petitioner cannot get the benefit as claimed by him. Even if this Court has passed the order on 13.12.2006 in W.P.(C) No. 7032 of 2006, that period has already been expired long since in the year 2006. Thus, the petitioner cannot claim such benefit by filing the present writ petition as the same is grossly barred by limitation. More so, the disputed question of facts cannot be entertained by this Court in exercise of the

power conferred under Article 226 of the Constitution of India.

7. Thus, the writ petition merits no consideration and the same is accordingly dismissed.

(DR. B.R. SARANGI)
JUDGE

Arun/Banita

(S.K. MISHRA)
JUDGE

