

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 18469 of 2018

Jindal Stainless Ltd.

.....

Petitioner

Mr. A.N. Das, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

*Mr. J.P. Patnaik, G.A. &
Mr. P.K. Muduli, Advocate
(O.Ps. 2 and 3)*

CORAM:

DR. JUSTICE B.R. SARANGI

Mr. JUSTICE G. SATAPATHY

ORDER

24.09.2022

Order No.

18.

This matter is taken up through hybrid mode.

2. The Petitioner has filed this Writ Petition seeking to quash Clause-7 & 23 of the Notification dated 17.09.2014 under Annexure-2 and also the communication made under Annexure-1.

3. Needless to say, learned Counsel for the Petitioner brought to the notice of this Court about an identical matter, i.e. W.P.(C) No. 18133 of 2018, which had also been filed by the very same Petitioner with the identical prayer and this Court while disposing of the said Writ Petition on 06.11.2019 passed the following order.

“W.P.(C) No. 18133 of 2018

19. 06.11.2019 Heard Mr. Aditya N. Das, learned counsel for the petitioner.

By way of this writ petition, petitioner has challenged the notice under Annexure-1 dated 25.08.2018 whereby the opposite party No.3 has issued notice to the petitioner to show cause for non-performance/low performance in lifting of the allotted quantity of Chrome Ore/Chrome Concentrate.

The main contention of the petitioner is that the notice is contrary to two notifications which are issued by the State Government by which powers are delegated to the Orissa Mining

Corporation, one notification is dated 17.9.2014 and subsequent notification dated 18.11.2015, by which earlier notification dated 17.9.2014 is modified.

The relevant portion of the notification dated 18.11.2015 is quoted hereunder:

“....Now therefore, the State Government have been pleased to make the following modifications to the Notification No. 1462 dated the 17th September, 2014 as amended by the Notification No. 641, dated the 30th April, 2015:-

- (i) The last paragraph in the Notification No. 1462, dated the 17th September, 2014 shall be replaced with the following paragraph:- “The OMC will execute sale agreements with W.P.(C) No. 18133 of 2018 -2- the long-term buyers, which should not be inconsistent to the provisions of this Notification.”*

The further contention of the learned counsel for the petitioner is that the intent and purpose of the notification has been diluted in the impugned notice by incorporating the words which are not there in the notification from which the authority derives power to issue notice. It is pursuant to the resolution of the 417th Meeting of Board of Directors of OMC Limited held on 28.6.2016, more particularly, penalty clause, the impugned notice has been issued. The same reads as under:

“Penalty for LTL buyer:

If the buyer fails to lift 80% of the agreed quantity penalty shall be charged @2% of the sale value of the unlifted agreed quantity calculated from the total quantity allotted.”

Therefore, it is submitted that, the OMC has travelled beyond the power which are conferred by the Notification.

It appears that the petitioner has not filed any reply to the impugned notice. In our considered opinion, the petitioner should raise all such contentions before the authority, which is required to be considered by the -3- authority. It will also be open for the authority to issue a fresh notice withdrawing the impugned notice, if it is found that the impugned notice is contrary to law.

Hence, it is directed that in the event the petitioner files a comprehensive reply raising all its contentions, the authority shall entertain and pass a reasoned order after considering each of the contentions raised by the petitioner.

With the aforesaid observation and direction, this writ petition is disposed of.”

4. In view of such position, it is directed in the event the petitioner

files a comprehensive reply raising all its contentions, the authority shall entertain and pass a reasoned order after considering each of the contentions raised by the Petitioner.

5. With the above observation the Writ Petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun/Kishore

(G. SATAPATHY)
JUDGE

