

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 29685 of 2021

W.P.(C) No. 29688 of 2021

W.P.(C) No. 30676 of 2021

W.P.(C) No. 30678 of 2021

And

W.P.(C) No. 38002 of 2021

W.P.(C) No. 29685 of 2021

M/s S.R. Associates

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Petitioner

Mr. S.K. Dalai, Adv.

Vs.

Mahanadi Coalfield Ltd. and Ors.

.....

Opposite Parties

*Mr. A. Nadkarni, Sr. Adv.
along with Mr. D. Mohanty, Adv.*

W.P.(C) No. 29688 of 2021

M/s Pradhan Construction

.....

Petitioner

Mr. S.K. Dalai, Adv.

Vs.

Mahanadi Coalfield Ltd. and Ors.

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Opposite Parties

*Mr. A. Nadkarni, Sr. Adv.
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W.P.(C) No. 30676 of 2021

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Mr. S.K. Dalai, Adv.

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Opposite Parties

*Mr. A. Nadkarni, Sr. Adv.
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W.P.(C) No. 30678 of 2021

M/s S.R. Associates

.....

Petitioner

Mr. S.K. Dalai, Adv.

Vs.

Mahanadi Coalfield Ltd. and Ors.

.....

Opposite Parties

*Mr. A. Nadkarni, Sr. Adv.
along with Mr. D. Mohanty, Adv.*

W.P.(C) No. 38002 of 2021

Sanjay Kumar

.....

Petitioner

Mr. S.K. Dalai, Adv.

Vs.

Mahanadi Coalfield Ltd. and Ors.

.....

Opposite Parties

*Mr. A. Nadkarni, Sr. Adv.
along with Mr. D. Mohanty, Adv.*

CORAM:

DR. JUSTICE B.R.SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

07.09.2022

Order No.

07.

W.P.(C) No. 29685 of 2021 has been filed seeking to quash the Notice Inviting Tender dated 28.05.2021 for the work “Comprehensive Annual Maintenance of Civil and Electrical works at Hingula Colony under Hingula OCP, Hingula Area (for a period of 02 years)” under Annexure-4, and consequential action taken thereto vide letter dated 11.09.2021 under Annexure-6, awarding the work order vide letter no. MCL/GM (HA)/SOC/e-Tender/AOC/Rev/21-22/34 dated 07.09.2021 to one Kishore Chandra Satapathy and directing the petitioner to stop the work within 15 days, and to issue direction to the opposite parties to allow the petitioner to complete the work as per the terms of the advertisement and agreement vide Annexures-1 and 3 respectively.

2. Whereas, W.P.(C) No. 29688 of 2021 has been filed seeking to quash the Notice Inviting Tender dated 11.05.2021 under Annexure-4 series for the work “Day to day maintenance including up-keeping work at N.S. Nagar Township, BOCP under Bharatpur area” for 730 days and consequential action thereto, vide order

dated 06.09.2021 under Annexure-5, awarding the contract in favour of M/s Roy Constructions, and to issue direction to the opposite parties to allow the petitioner to complete the work as per the terms of the advertisement and agreement vide Annexures-1 and 3 respectively.

3. Similarly, W.P.(C) No. 30676 of 2021 has been filed seeking to quash the Notice Inviting Tender vide Annexure-3 series dated 31.05.2021 for the work “Day to day Comprehensive Colony Maintenance of Civil and Electrical works of Area Unit, Jagannath Area for a period of 02 two years, and to issue direction to the opposite parties to allow the petitioner to complete the work as per the terms of the advertisement and agreement vide Annexures-1 and 2 respectively.

4. Whereas, W.P.(C) No. 30678 of 2021 has been filed seeking to quash the Notice Inviting Tender vide Annexure-3 series dated 11.05.2021 for the work “Day to day maintenance including up-keeping work at N.S. Nagar Township, BOCP under Bharatpur” within a period of 730 days and consequential action thereto vide letter dated 06.09.2021 under Annexure-4, awarding the work to M/s Roy Constructions, and to issue direction to the opposite parties to allow the petitioner to complete the work as per the terms of the advertisement and agreement vide Annexures-1 and 2 series respectively.

5. Similarly, W.P.(C) No. 38002 of 2021 has been filed seeking to quash the Notice Inviting Tender dated 28.05.2021 under Annexure-3 in respect of the work “Annual Operation & Maintenance of Civil and Electrical works of Residential Quarters at

Ananta Vihar Colony of AOCP, under Jagannath Area for a period of 02 (two) years” and notice dated 20.11.2021 for foreclosure of the contract, vide letter dated 20/23.11.2021, under Annexure-5, and to issue direction to the opposite parties to allow the petitioner to complete the work as per the terms of the advertisement and agreement vide Annexures-1 and 2 series respectively.

6. The petitioners in all these writ petitions, by following a tender process, were selected and work orders were issued in their favour and consequentially agreements were executed and, as such, all the petitioners are performing their part of the contract, pursuant to the respective e-tender notice and agreement executed and work order issued. While they are discharging their duties, in respect of each of the contracts, fresh tender notice, inviting tender has been issued by the authority and consequential steps have been taken, which are challenged before this Court in the present writ petitions.

7. While entertaining these writ petitions, this Court passed interim order on various dates and as a consequence thereof, the petitioners are continuing with their work, as per the work orders issued in their favour. Pursuant to notice issued, opposite parties have filed counter affidavit and so also the petitioners have filed rejoinder affidavit in each of the cases. But because of the interim order passed by this Court, the petitioners have been performing the work in terms of the work orders issued in their favour, and even if fresh notices inviting tenders have been issued and consequential steps have been taken, the same have not been implemented.

8. A detailed chart is given herewith to find out the performance of each of the petitioners:-

W.P.(C) No.	Name of the party	Date of NIT & Annexure	Work awarded	Description of work	Duration (Days)	Commencement date	Ending date	Left over time
29685/2021	M/s S.R. Associates v. MCL and others	30.10.2020 Annexure-1	03.02.2021 Annexure-3	Annual upkeeping works of quarters (24 nos. A type qtrs & 186 nos B type qtrs of Hingula OCP at South Balanda under Hingula Area for two years	730	03.02.2021	03.02.2023	Five months
29688/2021	M/s Pradhan Construction v. MCL and others	26.09.2020 Annexure-1	16.12.2020 Annexure-3	Day to day maintenance of major cement works of residential quarters, Brahmani Club, School, Market Complex etc and other works during change of occupancy of A.B.C. type quarters at NS Nagar Colony of BOCP - BA for 2 years.	730	16.12.2020	16.12.2022	Three months
30678/2021	M/s S.R. Associates v. MCL and others	13.10.2020 Annexure-1	22.12.2020 Annexure-2	Weekly cleaning of staircase of A.B. and C type blocks of NS Nagar Bharatpur Project under Bharatput area for a period of two years	730	22.12.2020	22.12.2022	Three months
30676/2021	M/s Pradhan Construction v. MCL and others	03.01.2020 Annexure-1	17.10.2020 Annexure-2	Upkeeping of 132 KV Sub-station, 33 KV Sub-station and Sub-station Colony under CGM's Unit of Jagannath Area for a period of 02 (two) years.	730	17.10.2020	18.10.2022	One months
38002/2021	Sanjay Kumar v. MCL and others	17.06.2020 Annexure-1	02.10.2020 Annexure-2	Upkeeping of Ananta Vihar Colony for a period of two years at Ananta OCP under Jagannath Area	730	02.10.2020	02.10.2022	One months

9. In view of the detailed chart, as mentioned above, even though the petitioners have raised different questions, but the same have been answered by filing counter affidavit by the opposite parties. Since the period of tender is going to expire within a short

span of time, as per the detailed chart mentioned above, this Court, instead of delving into the issues in detail, exercising the equity jurisdiction, called upon the learned counsel appearing for the parties to resolve the dispute. Taking into consideration the peculiar facts and circumstances and as the parties are agreed, the petitioners in W.P.(C) No. 29688 of 2021, W.P.(C) No. 30678 of 2021, where three months time is left to complete the work, and W.P.(C) No. 30676 of 2021 and W.P.(C) No. 38002 of 2021, where one month time is left to complete the work, are permitted to complete the work by 16.12.2022, 22.12.2022, 18.10.2022 and 02.10.2022 respectively.

10. So far as W.P.(C) No. 29685 of 2021 is concerned, since five months are left to complete the work, this Court on agreement of the parties, is not inclined to allow the petitioner in the said writ petition to complete the work. As such, the opposite parties are permitted to allow the successful bidder, pursuant to the Notice Inviting Tender dated 28.05.2021, to perform the work. The petitioner in the said case is directed to stop the work within ten days hence, so that foreclosure of the contract shall be processed and the successful bidder, pursuant to Notice Inviting Tender dated 28.05.2021, shall be allowed to perform the work in terms of the agreement executed as per the composite tender issued by the authority.

11. It is also brought to the notice of the Court that pursuant to the fresh Notice Inviting Tender (Composite Tender) issued by the opposite parties, the petitioners in the respective writ petitions have participated and some of them have also succeeded and, as such, they shall perform their work in terms of the

agreement executed or to be executed in their favour. Therefore, challenge to such Notice Inviting Tender cannot sustain in the eye of law and, as such, this Court has expressed no opinion on the same. Rather, exercising the equity jurisdiction, the aforesaid order has been passed to resolve the dispute for all times to come.

12. Accordingly, the writ petitions are disposed of.

Issue urgent certified copy as per rules.

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DR. B.R. SARANGI,
JUDGE

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G. SATAPATHY,
JUDGE

