

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 27626 of 2022

Gyanaranjan Mohapatra

.....

Petitioner

Mr. S.R. Mohanty, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. P.K. Muduli, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

27.10.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. S.R. Mohanty, learned counsel for the petitioner and Mr. P.K. Muduli, learned Additional Government Advocate for the State.

3. The petitioner has filed this writ petition challenging the demand raised by the authority vide notice dated 03.08.2022 under Annexure-6 for an amount of Rs.3,36,49,765/-.

4. Mr. S.R. Mohanty, learned counsel for the petitioner contended that with regard to the Royalty + Additional Charges, amount has been demanded to be Rs.2,87,12,840/- and DMF @ 10% has been demanded to be Rs.2,871,290/-. He brings to the notice of this Court about Rule 9 (2) (b) of the Odisha District Mineral Foundations Rules, 2015, wherein it has indicated that all holders of the minor mineral leases shall, in addition to the royalty, pay to the respective trust amount equivalent to ten percentum of the royalty, if the lease has been granted through auction. Therefore, according to him, the determination of the amount, made by the authorities cannot sustain

in the eye of law.

5. Mr. P.K. Muduli, learned Additional Government Advocate contended that in compliance to the demand raised vide order dated 03.08.2022, the petitioner has already deposited the same on 03.09.2022. However if at all the petitioner has any grievance as made by him in this writ petition, he has remedy available by approaching the appellate forum. He further contended that Rule-9 (2)(b) of Odisha District Mineral Foundations Rules, 2015, which the petitioner relies upon, is not applicable to the minor mineral, therefore, the demand is well justified.

6. Having heard learned counsel for the parties and after going through the record, since the petitioner has already deposited the demand raised by the authorities, if the petitioner is liable for refund of any amount, alternative remedy is available to him under the statute, to pursue the same in accordance with law, so that the relief sought by the petitioner can be adjudicated.

7. The writ petition is accordingly disposed of.

(DR. B.R. SARANGI)
JUDGE

(B. P. SATAPATHY)
JUDGE

Arun