

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.34027 OF 2021

Bishnu Prasad Sahoo

....

Petitioner

Mr.P.Mohanty, Adv.

-versus-

**Odisha Mining Corporation Ltd. &
ors.**

....

Opposite Party(s)

Mr.P.K.Muduli, Adv.

Mr.S.Mishra, ASC

CORAM:

JUSTICE BISWANATH RATH

ORDER

21.9.2022

**Order
No.**

6.

1. Heard learned counsel for the Parties.

2. The Writ Petition involves the following prayer :-

“It is, therefore, prayed that this Hon’ble Court may graciously be pleased to issue Rule Nisi in the nature of writ of Mandamus and/or any other appropriate writ/writs, direction/directions, order/orders calling upon the Opposite Parties to show cause ;

As to why they shall not be commanded to allow the Petitioner’s Six Wheeler truck bearing Registration No.OR-04F-3493, for loading and transportation of minerals in Sukinda Area by re-activating and/or re-uploading the truck on the i3MS system, within a particular time.

3. Entering into hearing on the allegation that neither the Petitioner nor the truck has any involvement in the criminal activity involving proceeding pending in Criminal Court of law, this Court directed the learned State Counsel to take instruction if the Petitioner is charge-sheeted involving criminal prosecution pending. An affidavit has been filed by O.P.4 disclosing that in the investigation

process, CCTV footage since reported physically entering of the truck inside the factory premises during occurrence of offence period and the truck is already involved in Sukinda P.S. Case No.151 dated 7.6.2019 State is undertaking a prosecution case under Sections 407, 408 & 34 of I.P.C. Even though a clear statement has been made by the learned State Counsel that the Petitioner being the owner of the truck is not charge-sheeted but there is direct involvement of the truck in the criminal proceeding pending. There is however release of the vehicle involved in the zimanama of the Petitioner does not mean the truck is free from criminal liability.

4. In the circumstance, this Court finds, the Petitioner is simply the Custodian of the truck pending conclusion of the trial involving criminal proceeding. For the truck appearing to be involved in the offence, no liberty should be granted to the Petitioner to undertake any transaction through such truck.

5. It is at this stage of the matter, Mr.Mohanty, learned counsel for the Petitioner submits that there has been taking advantage of the simplicity of the owner of the truck by the accused persons including the driver of the offending truck at the relevant point of time but appearing to be a driver of the previous owner of the truck. Learned counsel for the Petitioner further submits that there is heavy involvement of finance on the truck involved and unless the truck is

permitted involving transport, there will be huge loss to the Petitioner. Such issue cannot be considered at least till criminal proceeding is not over.

6. Loss, if any, on account of seizure or misutilisation by anybody on the truck involved is a separate issue, which can be taken up in appropriate proceeding initiated by the Petitioner but only after the criminal proceeding is over.

7. For there is concrete material in disclosing involvement of the truck involved, this Court finds no scope for granting relief involving the Writ Petition, which thus stands dismissed.

(Biswanath Rath)
Judge

M.K.Rout

