

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No. 32323 of 2022

M/s. Pramod Behera Construction
Cuttack.

Petitioner
Mr. Nilakantha Jujharsingh, Advocate

-Versus-

State of Odisha & others

Opp. Parties
Mr. D. Nayak,
Addl. Government Advocate

CORAM:

JUSTICE S. TALAPATRA
JUSTICE SAVITRI RATHO

ORDER
05.12.2022

Order No.
01.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. Nilakantha Jujharsingh, learned counsel appearing for the petitioner as well as Mr. D. Nayak, learned Addl. Government Advocate appearing for the State-opposite parties.
3. The petitioner is a Super Class Contractor, engaged by the opposite party No.5 for execution of the work in terms of the agreement. It may be noted that the agreement was signed by the Executive Engineer, Cuttack (R&B) Division, Cuttack, now designated as the Superintending Engineer, [the Opposite Party No.5].
4. The petitioner has, by means of this writ petition, urged this Court for issuance of a writ of mandamus directing the opposite party

No.5 to reimburse the differential amount for enhancement of minimum wages in terms of the Notification, Annexures-2 to 6 to this writ petition.

5. Mr. Jujharsingh, learned counsel for the petitioner has made of reference to the judgment of this Court in **Mahesh Prasad Mishra vs. State of Orissa & others**, reported in **2012 (Supp.-I) OLR-1035**.

In the said judgment, it has been observed thus:

“8. In view of the aforesaid statement of law which has been declared by the Supreme Court and followed by the Division Bench of this Court in Suryamani Nayak and another Division Bench in Surendranath Kanungo v. State of Orissa and M/s. Niligiri Corporation Society Ltd. (supra), the claim of the petitioner is covered by the decision of the Division Bench. Therefore, the same shall be applied to the fact situation and relief be granted. In view of the clear pronouncement of the Supreme Court which has been followed by this Court in the aforesaid cases, the stand taken by the State justifying the impugned order cannot be accepted. Accordingly, the impugned orders rejecting the petitioner’s prayer for payment of price escalation/enhancement of rate of wages of labour and materials vide Annexure-5 is liable to be quashed and is accordingly quashed. The writ petition is accordingly allowed. Direction is given to the opposite parties to pay

the enhanced rate of wages of labour component under the agreement as per Govt. Notification dated 13.7.2009 under Annexure-2.”

6. Mr. Jujharsingh, learned counsel has submitted that the similar direction may also be passed by this Court.

7. Mr. D. Nayak, learned Addl. Government Advocate referred to the representation, filed by the petitioner on 27.09.2022, Annexure-8 to the writ petition, has contended that the said representation will be given due consideration, but it will be expedient, if the petitioner files a fresh representation cataloguing the wages on different points of time and accounting the differential amount that has accrued on as per the Notification, Annexures-2 to 6.

8. Having appreciated the submission of the counsel for the parties, we dispose of the writ petition with the following direction:

We direct the petitioner to file a fresh representation laying down the details of the claim within a period of seven days from today. At the same time, we direct the opposite party No.5 in particular, to consider the representation and reimburse the differential wages in terms of the Notification, Annexures-2 to 6 to the writ petition.

9. The entire exercise shall be completed by the opposite party No.5 within a period of six weeks from the date of receiving the representation from the petitioner.

10. There shall be no order as to cost.

(S. Talapatra)
Judge

(Savitri Ratho)
Judge

Rati Ranjan Nayak

