

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.38781 of 2021

Sridhar Samal

....

Petitioner

M/s. Ankita Mukherji, Adv.

-versus-

State of Orissa and Ors.

....

Opp. Parties

Mr. P.Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. PANIGRAHI

ORDER

03.01.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Parties.
3. The Petitioner has filed this Writ Petition with a prayer to quash the impugned order dated 15th November, 2021 under Annexure-9 passed by the Opposite Party No.5-Tahasildar, Remuna.
- 4 It is contended by the learned counsel for the Petitioner that the reason for issuance of fresh notice cannot sustain in the eye of law. Therefore, this application has been filed for invoking writ jurisdiction.
5. Mr. P. Mohanty, learned Additional Government Advocate for the State contends that pursuant to the order passed by this

Court in W.P.(C) No.20007 of 2021, the representation filed by the Petitioner was fixed to 15th November, 2021 for consideration. But the Petitioner did not appear on that date on the pretext that he was ill.

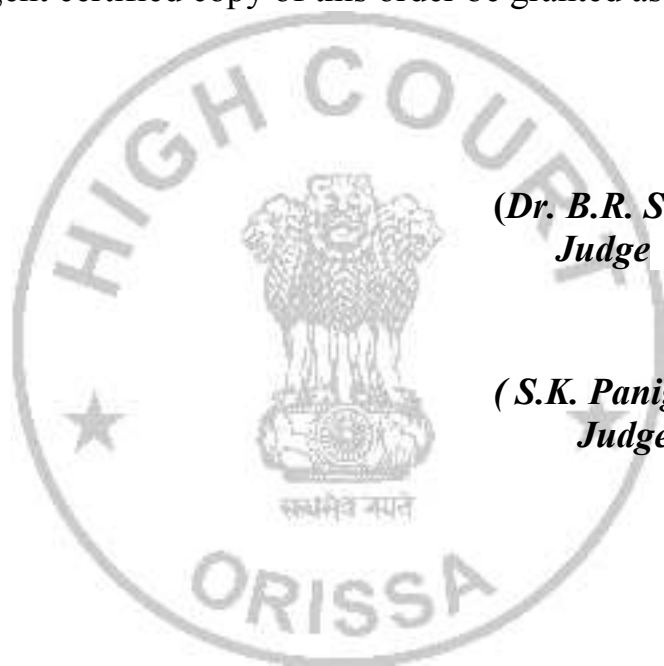
6. Since it is a tender matter, the Government is facing lot of financial crunch. It is the duty of the Petitioner that he should have participated either personally or through some of his representative. Since no one has represented on behalf of the Petitioner on the date fixed, the State Government was suffering loss everyday, thereby the order dated 15th November, 2021 was passed. It is further contended that the order impugned is appealable one, in view of the provisions contained under Rule-46 of the Odisha Minor Mineral Concession Rules, 2016 (hereinafter referred to as “the OMMC Rules” for brevity). It is also stated that since there is alternative remedy available, the Petitioner should have approached the appropriate forum making his grievances.

7. Considering the submissions of the learned counsel for the Parties and on going through the records, it appears that since the Petitioner did not appear on the date fixed i.e. on 15th November, 2021 nor approached the authority by making an application stating that since he was ill he could not be able to appear, the impugned order has been passed. Since it is a tender matter, the Petitioner should have made an alternative arrangement to participate in the process itself. In any case, this

Court is not making any observation to that extent. But, since the appeal provision is their under Rule-46 of the OMMC Rules, it is open to the Petitioner to raise all the contentions raised in the present Writ Petition before the appellate forum.

8. With the above observations, this Writ Petition is disposed of.

9. Urgent certified copy of this order be granted as per rules.



(Dr. B.R. Sarangi)
Judge

(S.K. Panigrahi)
Judge

BJ