

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 34404 of 2022

M/s ABC Construction, BBSR

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Petitioner

Mr. S.S. Rao, Adv.

Vs.

***Chief Engineer, Central Public
Works Deptt. BBSR and others***

.....

Opposite Parties

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

16.12.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. S.S. Rao, learned counsel for the petitioner.

3. The petitioner has filed this writ petition seeking to quash the order dated 02.12.2022 under Annexure-4, by which the Chief Engineer, CPWD, Bhubaneswar determined that the petitioner is liable to pay a sum of Rs.74,94,401/- as compensation, as stipulated in clause-2 of the agreement and directed the petitioner to pay the same within a period of 15 days, failing which the said amount shall be adjusted or set-off against any sum payable to the petitioner under the contract in question or any other contract with the Government.

4. Mr. S.S. Rao, learned counsel for the petitioner contended that the petitioner has raised a dispute with regard to payment of any amount to the opposite parties and, as such, the petitioner earlier approached this Court for appointment of Arbitrator by filing ARBP No. 18 of 2022, which was disposed of on 30.09.2022, appointing Mr. Justice A.K. Mishra, as Arbitrator. It is contended that the petitioner has already entered appearance before the Arbitrator on 24.11.2022 and filed application for filing of claim settlement and, as such, on consideration of the same, notice was also issued to the opposite parties. But, when the matter is subjudice before the Arbitrator, the order dated 02.12.2022 under Annexure-4 has been issued by the

opposite parties demanding a sum of Rs.74,94,401/- towards compensation.

5. Having heard learned counsel for the petitioner and after going through the records, this Court is of the considered view that since the dispute with regard to the contract in question is pending before the Arbitrator, as has been brought to the notice of the Court, and the petitioner has already filed an interlocutory application under Annexure-7, we are not inclined to issue any direction in the matter. However, it is contended by learned counsel for the petitioner that unless this Court interferes in the matter, after expiry of 15 days period, the entire amount, which is demanded, will be appropriated by the opposite parties from the dues of the petitioner. Therefore, we request the Arbitrator to consider the interlocutory application under Annexure-7 filed by the petitioner in ARBP No.56 of 2022 and pass appropriate order as expeditiously as possible, preferably before the last date expires for recovery of the amount, as has been stated in the order dated 02.12.2022 under Annexure-4.

6. The writ petition is accordingly disposed of.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Ashok

(B.P. SATAPATHY)
JUDGE