

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 40838 of 2021

Pradeep Kumar Dash

.....

Petitioner

Mr. S. Pattnaik, Advocate

Vs.

State of Odisha and another

.....

Opposite parties

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. PANIGRAHI

ORDER

11.01.2022

Order No.

01.

This matter is taken up through video conferencing mode.

2. Heard Mr. S. Pattnaik, learned counsel for the petitioner and Mr. P. Pattnaik, learned Addl. Standing Counsel.

3. The petitioner has filed this writ petition seeking to quash the letter dated 06.12.2021 under Annexure-3, by which he has been called upon to deposit security money in respect of Makanda Sand source on the basis of mining plan for 20,500 cum, and to issue direction to the opposite parties to allow the petitioner to deposit the security money as per the environmental clearance, i.e., 6000 cum. for the first year.

4. Mr. S. Pattnaik, learned counsel for the petitioner contended that pursuant to the tender call notice, the petitioner participated in the process of tender and, as such, he having been selected in respect of Makanda Sand source, Makanda, he has been called upon to deposit security amount on the basis of mining plan for the first year for 20,500 cum. for an amount of Rs.79,25,950/- in shape of demand draft in favour of Tahasildar, Remuna/RTGS

or bank transfer within seven days from the date of issue of the order, i.e., 06.12.2021. It is contended that there was other mode of receiving the security money on the basis of environmental clearance for the first year for 6000 cum. instead of 20,500 cum. Therefore, the calculation should have been made on the basis of mining plan for the first year.

5. Mr. T. Pattnaik, learned Addl. Standing Counsel contended that the order impugned in Annexure-306.12.2021 is appealable in view of the provisions contained under Rule-46 of OMMC Rules, 2016. It is further contended that since calculation has been made in terms of Rule-27(7) of Rules, 2016, the petitioner should not have approached this Court by filing the present writ petition.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that as per the terms and conditions of the contract if the petitioner has been called upon to deposit the security amount on the basis of mining plan for 20,500 cum., it is within complete domain of the tendering authority and, as such, this Court is not inclined to interfere with the same. However, in course of hearing, Mr. S. Pattnaik, learned counsel for the petitioner contended that the petitioner has already moved the authority vide Annexure-4 dated 18.12.2021, which is still pending for consideration.

7. In the above view of the matter, this writ petition stands disposed of permitting the petitioner to pursue the application filed before the tendering authority under Annexure-4 dated

18.12.2021 who shall consider the same and pass appropriate order in accordance with law as expeditiously as possible, preferably within a period of three weeks from the date of production of certified/authenticated copy of this order.

As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(DR. B.R. SARANGI)
JUDGE

(S.K. PANIGRAHI)
JUDGE

Ashok