



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.37716 of 2025

Ajit Samal

....

Petitioner

Represented by Adv.–

Mr. Pratap Kumar Behera, Advocate

-Versus-

State of Odisha and others

....

Opposite Parties

Represented by Adv.–

Ms. Biswabara Dash, Addl. Standing Counsel

CORAM:

HON'BLE THE CHIEF JUSTICE

AND

HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

25.03.2026

Order No.

02. 1. The petitioner, a 'B' Class Contractor, has filed the instant writ petition challenging clause 14(d)(i) of the tender call notice dated 30.11.2025, which postulates the execution of a similar nature of work worth 75% of the estimated cost put to the tender during any three financial years putting together of the last preceding five years excluding the current financial year.
2. The petitioner contends that he has been registered as a 'B' Class Contractor in the last year and, therefore, does not fulfill the conditions enshrined in the said clause, which is not only arbitrary but violative of Articles 14 and 19(1)(g) of the Constitution of India. According to learned counsel for the petitioner, such clause being oppressive and/or restrictive eliminating the other eligible contractors to participate in the said tender, the same is liable to be quashed and set aside.



3. We have been taken to a judgment rendered by us in ***Biswajit Rath Vs. State of Odisha and others*** decided on ***9th January, 2026 in W.P.(C) No.1413 of 2025*** wherein we find that the co-ordinate Bench while considering the somewhat identical clause appearing in a tender document did not find the same to be violative of Articles 14 and 19(1)(g) of the Constitution of India and dismissed the writ petition. Since the judgment rendered by the Co-ordinate Bench is binding on the another Co-ordinate Bench, we dismissed the said writ petition founded on the similar ground to ensure the certainty and/or uniformity in judicial decision. The comity of judicial discipline demands the adherence of the proposition of law laid down by the earlier co-ordinate Bench and in the event, the later Co-ordinate Bench could not persuade itself to accept the proposition of law so laid down, the only course open to the Bench to refer the matter to the Chief Justice to constitute a larger Bench. Ultimately, we held in the decision that the incorporation of clause of such nature is not violative of Articles 14, 19(1)(g), 21 and 300A of the Constitution of India and cannot be declared as malicious, arbitrary and outcome of colourable exercise of statutory power.

4. We do not find any material forthcoming before us to depart from the view taken by this Bench and in order to maintain the judicial comity, we therefore, dismiss the instant writ petition. No order as to costs.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge