

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.41866 of 2023

And

I.A. No.20148 of 2023

***Gyanaranjan Mohapatra @
Jnanaranjan Mohapatra***

.....

Petitioner

Mr. S.R. Mohanty, Advocate

Vs.

State of Odisha & Others

.....

Opposite Parties

Mr. P.P. Mohanty, AGA

CORAM:

**ACTING CHIEF JUSTICE DR. B.R. SARANGI
MR. JUSTICE MURAHARI SRI RAMAN**

ORDER

21.12.2023

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. S.R. Mohanty, learned counsel appearing for the petitioner and Mr. P.P. Mohanty, learned Addl. Government Advocate appearing for the State-opposite parties.

3. The petitioner has filed this writ petition seeking to quash the demand notice dated 11.07.2023 under Annexure-8, by declaring the action of the opposite parties as illegal.

4. Mr. S.R. Mohanty, learned counsel appearing for the petitioner contended that pursuant to the tender call notice dated 17.09.2021 under Annexure-1, the petitioner participated in the process of tender and was selected at the offered price of Rs.(130/-+156/-) per cubic meter, as quoted by him. It is contended that the petitioner was willing to deposit the aforesaid amount, but vide Annexure-8 a demand was raised by the authority, taking into consideration the additional charge, which has been enhanced by the

District Level Committee to Rs. (130/-+295/-) at the time of grant of environmental clearance as per the instructions received from the office of the Addl. Chief Secretary, R&DM Department vide letter no.11111 dated 07.04.2022. It is contended that the District Level Committee, relying upon the letter dated 07.04.2022, cannot enhance the amount beyond the agreed amount, for which the petitioner was selected. It is further contended that the petitioner is willing to deposit the quoted price, i.e., Rs.(130/-+156/-), for which he was selected and direction may be given to the authority to execute the agreement so that the petitioner can discharge his responsibilities in terms of the contract. It is further contended that assuming the letter dated 07.04.2022 is applicable, it may apply prospectively and, as such, it has no retrospective effect to enhance the quoted price from Rs.(130/-+156/-) to Rs. (130/-+295/-).

5. Mr. P.P. Mohanty, learned Addl. Government Advocate appearing for the State-opposite parties contended that on the basis of the letter dated 07.04.2022 issued by the Addl. Chief Secretary, R&DM Department, enhancement was made by the District Level Committee from Rs.(130/-+156/-) to Rs. (130/-+295/-) and, as such, demand has been raised by the authority. Therefore, unless the petitioner deposits such amount, question of execution of agreement does not arise.

6. Issue notice to the opposite parties.

7. Four extra copies of the writ petition be served on Mr. P.P. Mohanty, learned Addl. Government Advocate appearing for the State-opposite parties within three working days enabling him to obtain instructions or file counter affidavit.

8. Since the bid of the petitioner has been accepted at Rs.(130/-+156/-) and the same has been subsequently enhanced by the District

Level Committee, which is without jurisdiction and, as such, the same has been done relying upon the letter dated 07.04.2022, which may apply prospectively, as an interim measure, pending final adjudication of the writ petition, let the petitioner deposit the admitted amount, i.e., Rs.(130/-+156/-) per cubic meter, as against the demanded amount raised by the authority under Annexure-8 within a period of seven days hence. On accepting the amount, the opposite party-authority is directed to execute the agreement by permitting the petitioner to proceed with the work.

9. Put up this matter along with W.P.(C) No.28295 of 2023 on the date fixed therein.

Laxmikant



(DR. B.R. SARANGI)
ACTING CHIEF JUSTICE

(M.S. RAMAN)
JUDGE