



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27096 of 2024

Sandeep Chandak

.....

Petitioner

versus-

State of Odisha and others

.....

Opposite Parties

Advocates appeared in this case:

For Petitioner : Mr. S.S. Mohanty, Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate

W.P.(C) No.15588 of 2023

Jayanti Jena

.....

Petitioner

versus-

State of Odisha and others

.....

Opposite Parties

Advocates appeared in this case:

For Petitioner : Mr. S. Palit, Sr. Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate

W.P.(C) No.15589 of 2023

Jayanti Jena

.....

Petitioner

versus-

State of Odisha and others

.....

Opposite Parties

Advocates appeared in this case:

For Petitioner : Mr. S. Palit, Sr. Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate



W.P.(C) No.15773 of 2023

Sandeep Chandak **Petitioner**

versus-

State of Odisha and others **Opposite Parties**

Advocates appeared in this case:

For Petitioner : Mr. S.S. Mohanty, Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate

W.P.(C) No.15777 of 2023

Tapan Kumar Nayak **Petitioner**

versus-

State of Odisha and others **Opposite Parties**

Advocates appeared in this case:

For Petitioner : Mr. S.S. Mohanty, Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate

W.P.(C) No.17626 of 2023

Niranjan Rout **Petitioner**

versus-

State of Odisha and others **Opposite Parties**

Advocates appeared in this case:

For Petitioner : Mr. S. Palit, Sr. Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate



W.P.(C) No.21573 of 2023

**M/s. Premier Rock Pvt. Petitioner
Ltd., Gurgaon**

versus-

State of Odisha and others Opposite Parties

Advocates appeared in this case:

For Petitioner : Mr. S.S. Mohanty, Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate

W.P.(C) No.21577 of 2023

**M/s. Premier Rock Pvt. Petitioner
Ltd., Gurgaon**

versus-

State of Odisha and others Opposite Parties

Advocates appeared in this case:

For Petitioner : Mr. S.S. Mohanty, Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate

W.P.(C) No.24438 of 2023

Rangadhar Pradhan Petitioner

versus-

State of Odisha and others Opposite Parties

Advocates appeared in this case:

For Petitioner : Mr. S.S. Mohanty, Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate



W.P.(C) No.28295 of 2023

Sandeep Chandak **Petitioner**

versus-

State of Odisha and others **Opposite Parties**

Advocates appeared in this case:

For Petitioner : Mr. S.S. Mohanty, Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate

W.P.(C) No.28611 of 2023

Jayanta Kumar Jena **Petitioner**

versus-

State of Odisha and others **Opposite Parties**

Advocates appeared in this case:

For Petitioner : Mr. S.K. Dalai, Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate

W.P.(C) No.34927 of 2023

Laxmipriya Prusty **Petitioner**

versus-

State of Odisha and others **Opposite Parties**

Advocates appeared in this case:

For Petitioner : Mr. S.S. Mohanty, Advocate

For Opposite Parties : Mr. S.B. Panda,
Additional Government Advocate



CORAM:

**THE HON'BLE MR. JUSTICE ARINDAM SINHA,
ACTING CHIEF JUSTICE
AND
THE HON'BLE MR. JUSTICE M.S.SAHOO**

J U D G M E N T

Date of hearing and judgment: 7th February, 2025

ARINDAM SINHA, ACJ.

1. Mr. Mohanty, learned advocate appears on behalf of petitioners in W.P.(C) no.27096 of 2024, W.P.(C) nos.15773, 15777, 21573, 21577, 24438, 28295 and 34927 of 2023. The writ petition bearing W.P.(C) no.34927 of 2023 involves similar issue, so it is treated as day's list under special notice and taken up. He submits, under challenge is revised demand for delay in execution of lease deed, imposing enhanced component in additional charges, from ₹129 to ₹295. He submits, counter has been filed and contention therein is reliance upon the rule 65 in Orissa Minor Minerals Concession Rules, 2016. The rule is reproduced below.

“65. Power to issue instructions:- The Government may issue instructions not inconsistent with the provisions of the Act and these rules from time to time, with a view to remove difficulties.”



2. He submits, rule 27 provides for procedure regarding grant of quarries. Drawing attention to sub-rule(2) he points out, there is requirement for inviting applications in form of technical bids and the invitation is to be uploaded in the e-auction portal by the competent authority specifying, inter alia, minimum amount of additional charge payable. Referring to sub-rule(15) in rule 27 he submits, the competent authority is to indicate minimum amount of additional charge to be quoted. That is akin to a reservation on the additional charge to be paid. Sub-rule(15) is reproduced below.

“27. Grant of quarry lease:-(15) The minimum amount of additional charge to be quoted shall be such as the Competent Authority, in consultation with the Controlling Authority, decide and specify in the notice inviting applications for grant of quarry lease:

Provided that the minimum amount of additional charge so fixed should not be less than 5% of the rate of royalty.”

According to Mr. Mohanty, the enhancement sought to be imposed cannot be said to be revised demand for delay in execution of lease deed nor issuance of instructions to remove defects. He seeks interference.

3. Mr. Palit, learned senior advocate appears on behalf of petitioners in W.P.(C) no.15588 of 2023, W.P.(C) no.15589 of 2023



and W.P.(C) no.17626 of 2023 and submits, also to be noticed is sub-rule (7) and (13) in rule 27. He submits, there is nothing in the counter to demonstrate a contention on violation of procedure provided in said sub-rules. No difficulty arose, for issuance of instructions which is nothing but a demand for enhancement over and above the stated additional charge in the uploaded invitation for applications. Mr. Dalai, learned advocate appears on behalf of petitioner in W.P.(C) no.28611 of 2023 and adopts above submissions.

4. Mr. Panda, learned advocate, Additional Government Advocate appears on behalf of State and relies on paragraph-9 in the counter filed against W.P.(C) no.27096 of 2024. He submits, State's case in all writ petitions is the same. Paragraph-9 is reproduced below.

“9. That, in reply to the averments made in Paragraph Nos.1 to 5 of the Writ Petition, it is humbly submitted that the lease agreement in respect of the quarry in question was executed on dtd.07.09.2022 Vide Annexure-14 to the Writ Petition and therefore, the executive instructions dtd.07.04.2022 issued in consonance with the Rule-65 of the Rules, 2016 Vide Annexure-7 to the Writ Petition would govern the lease agreement vide Annexure-14 to the Writ Petition.”

(emphasis supplied)



He submits, the executive instructions were issued on 7th April, 2022 prior to execution of the lease on 7th September, 2022. On query made Mr. Panda submits, the lease deeds carry additional charges as per the accepted bids. However, the instructions having had been issued before execution of the leases, they are to be followed by the lessees, by paying the enhanced additional charge. It is an annual charge necessitated for purpose of enhancement of revenue and calculated as per statutory provision.

5. We are unable to accept contentions of State regarding issuance of instructions, which did not have any effect on the leases executed subsequent thereto. Therefore, it is a demand for enhancement of the additional charges to be paid by the lessees, not provided in the lease. We have been taken through procedure in the rules regarding inviting applications for obtaining lease on quarries, to be uploaded in e-portal by the competent authority. We do not want to think that the minimum additional charge that was to be indicated in the invitation was erroneously fixed. We have not been shown any provision that empowers the competent authority/State to impose a higher charge on lessees, who have obtained their leases by being highest bidder in an auction indicating reserved amount of additional charge to be paid.



6. At this stage Mr. Panda submits, under challenge in the writ petitions are the demand notices. Petitioners have not challenged office order dated 16th April, 2022 constituting a District Level Committee (DLC) to render advisory assistance to the Collector for fixation of minimum guaranteed quantity (MGQ) and additional charges for minor minerals sources. We see this is an administrative order for the purpose of competent authority to obtain advice from the DLC. Fact is, the competent authority proceeded to invite bids before obtaining advice from the DLC. Subsequent thereto the administration may have received the advice from the DLC indicating there must be enhancement in the additional charges to be paid by lessees. However, the question before us is whether in an auction indicating a reserved value, bids made and accepted, there can be enhancement thereafter. There is nothing provided in the rules to show that in event in future the competent authority obtained advice from a DLC or for that matter any other person or body, correspondingly, effect of the advice is to be imposed on lessees, already executed and running.

7. Mr. Panda points out from condition-4 under part-IV in the lease deed that lessees are to pay royalty in advance and differential amount if any on computation shall be paid by the end of first



fortnight. The demand is covered by this condition. The condition is reproduced below.

“4. The lessee shall pay royalty in advance and differential amount, if any on Computation shall be paid by the end of the first fortnight of each half yearly period during the subsistence of the lease.”

Mr. Palit submits, the differential amount can only refer to the amount of royalty paid in advance. In event of short payment, the differential amount is to be paid within end of first fortnight. It does not allow for imposition of enhanced additional charge. We accept the submission that it relates to payment of advance royalty.

8. For reasons aforesaid, impugned revised demand is set aside and quashed. The writ petitions are allowed and disposed of.

(Arindam Sinha)
Acting Chief Justice

(M.S. Sahoo)
Judge

Jyostna/Radha

Signature Not Verified

Digitally Signed
Signed by: RADHARANI JENA
Reason: Authentication
Location: OHC
Date: 07-Feb-2025 18:01:00

