

IN THE HIGH COURT OF ORISSA, CUTTACK

(ORIGINAL JURISDICTION CASE)
W.P.(C) NO. <u>15766</u> OF 2018

CODE NO. 282008

IN THE MATTER OF:

An application Under Articles 226 and 227 of the Constitution of India;

AND

N THE MATTER OF:

An application challenging the illegal and arbitrary deduction of enhanced royalty amount from the bills of petitioner for the work vide agreement No. 1434 F2 of 2013-14 by the Opp.party No.4 as per Odisha

Presented in Court

\$ B.O

or 2013-14 by the Opp.party No.4 as per Saisha

Minor Mineral Concession Rules 2016, wherein the said OMMC Rules 2016 came into force on 15.12.2016

but prior to that the estimate was prepared, tender

was invited and agreement was signed, as such the

said enhanced royalty are not added in the

agreement value;

AND

शास्त INDIA

कोर्ट फी

दो रूपये TWO RUPEES

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IN THE MATTER OF:

M/s, Biswal Construction Co., (Partnership firm)

represented through its Managing Partner Sri Ramesh

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Chandra Biswal, aged about 62 years, Son of Late Padma Charan Biswal, At: Ghodasahi,

PO/PS: Soro, District: Balasore.

..... PETITIONER.

-VERSUS -

- State of Odisha, represented through Commissionercum-Secretary, Rural Development Department, Secretariat Building, Bhubaneswar, District: Khurda.
- Commissioner-cum-Secretary, Steel and Mines
 Department, Government of Odisha, Secretariat
 Building, Bhubaneswar, Dist: Khurda.
- Engineer-in-Chief, Rural Works, Odisha,
 Bhubaneswar, Dist: Khurda.
- Executive Engineer, Rural Works Division, Bhadrak,
 AT/PO/Dist: Bhadrak.

...... OPPOSITE PARTIES.







C96]						
	SI. No.	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any) taken on Order		
	03.	15.01.2019	Heard learned counsel for the Additional Government Advocate ap opposite parties.			
	JIIGH CO. SEE CO.S. A HOS CO. TO SESSA HOS CO. TO CO.S. A HOS CO. TO CO. TO CO. T		The grievance of the petitioned has paid certain additional royalty, where effect from 15.12.2016. It is contended to royalty with retrospective effect has all judgment and order dated 18.03.20 No.11830 of 2013 and batch of cases. Petitioner states that the petitioner was benefit of the said judgment. It is contended to the said judgment. It is contended to the said judgment. It is contended to the said judgment.	nich was enhanced with ed that enhancement of ready been set aside by 15 passed in W.P.(C) Learned counsel for the rould be entitled to the		
	थ्या क्रांट भारत दो रुपये TW	Rs 2	petitioner having made several representation royalty amount, the same is being ded bills/bills of the petitioner and the same to the petitioner in terms of the aforesait. Taking into consideration the	tations for refund of the ucted from the running has not been refunded djudgment.		
5	कार्ट ए भारत विकास मार्थित कार्या मार्थित विकास मार्थित कार्य मार्थ कार्य मार्थित कार्य मार्थित कार्य मार्थित कार्य मार्थित कार्य मार्थित कार्य मार्थ कार्य मार्थ कार्य मार्थ कार्य कार्य मार्थ कार्य कार	INDIA	passed in W.P.(C) No.11830 of 2013, Court has observed as follows: "xxx xxx 3. On receipt of such certifical produced before the respective Tahasildars shall in turn treapplications for refund of make it clear that the petition projects with the State, may refund of any excess royalty allowing adjustment of the against any ongoing projects undertaking."	tes, the same may be at the certificates as royalty. However, we ers who have ongoing and instead of seeking and paid, may opt for refundable amount		
×	~	II.	Further, it is seen that the iss	sue involved in the writ		

Further, it is seen that the issue involved in the writ petition is covered by the decision of this Court in Akuli Charan Das v. State of Orissa and others and batch of



0,0100	
	cases, 2006 (SuppII) OLR 672. The relevant portion of the
	said judgment reads as under:
200 are the Rs.2	"21. Under the circumstances, the writ applications, where agreements have been signed before 31.8.2004 i.e., the date of promulgation of the Orissa Minor Minerals Concession Rules, 2004, are disposed of with the following directions: (1) It is hereby declared that the petitioners are justified in their claim for reimbursement on the basis of the revised rate stipulated in 2004 Rules. (2) The petitioners may revise their bills to incorporate such enhanced claim on account of revised royalty. (3) The State is to effect reimbursement/payment towards royalty subject to the petitioners furnishing evidence of payment of such royalty. With the aforesaid observations and directions, the writ petitions are disposed of."
भारत	Upon hearing learned counsel for the parties, we are of
वो रुपये TWO RUPEES	the considered opinion that the writ petition will be governed by
TWO RUPEES	the above decisions of the Court.
27)	In that view of the matter, we direct that in the event
COURT (NS.2)	the petitioner, with regard to the grievance made in this
भारत INDIA	petition, files a comprehensive representation attaching
वीरुपये TWO RUPEES	running account bills along with certified copy of this order
	annexing therewith the judgment of this Court dated
	18.03.2015 passed in W.P.(C) No.11830 of 2013 and batch of
	cases and the decision in Akuli Charan Das (supra) within four
	weeks hence, the same shall be considered and decided by a
	reasoned and speaking order as expeditiously as possible,
	preferably within a period of four months from the date of filing
	of such representation. It is further directed that in case the
-	petitioner is found to be entitled for refund of any amount, the
× .	same shall be refunded to him within three weeks from the date
	of passing of the order or adjust the refundable amount against

ORDER WITH SIGNATURE

SI. No. of Order Date of

Order

Office note as to action (if any),

taken on Order

SI. No. Date Order	URIJER VVIIA	SIGNATURE	Office note as to action (if any), taken on Order
	petitioner may opt fo		be undertaking if the
	Urgent certi		order be granted on
		54.1	K.S. Theyeri, C.S. C.R. Mohapatra, J
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