

IN THE HIGH COURT OF ORISSA, CUTTACK

(ORIGINAL JURISDICTION CASE)

W.P.(C) NO. 15766 OF 2018

CODE NO. 282008

IN THE MATTER OF:

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

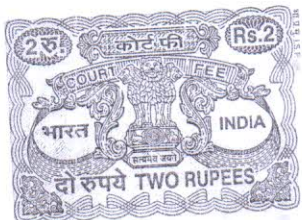
AND

IN 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 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;

Presented in Court

B.O.



AND

IN THE MATTER OF:

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

represented through its Managing Partner Sri Ramesh

Chandra Biswal, aged about 62 years, Son of Late  
Padma Charan Biswal, At: Ghodasahi,  
PO/PS: Soro, District: Balasore.

..... PETITIONER.

-VERSUS -

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

..... OPPOSITE PARTIES.



*[Handwritten signature]*







Sl. No.  
of Order

Date of  
Order

ORDER WITH SIGNATURE

Office note as to action (if any),  
taken on Order

**cases**, 2006 (Supp.-II) OLR 672. The relevant portion of the said judgment reads as under:

"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."

Upon hearing learned counsel for the parties, we are of the considered opinion that the writ petition will be governed by the above decisions of the Court.

In that view of the matter, we direct that in the event the petitioner, with regard to the grievance made in this petition, files a comprehensive representation attaching 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



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Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>any ongoing projects that they may be undertaking if the petitioner may opt for.</p> <p>The writ petition is allowed to the aforesaid extent.</p> <p>Urgent certified copy of this order be granted on proper application.</p> <p style="text-align: right;"> <i>Sd/- K.S. Thaveri, C.J.</i>  <i>Sd/- K.R. Mohapatra, J.</i> </p>	

AKK



Comp. by  
*[Signature]*  
 22/01/19