
(2020) 06 OHC CK 0001

In the Orissa High Court

Case No : Writ Petition (Civil) No. 12132 Of 2020

Ramesh Chandra Mishra

APPELLANT

Vs

Collector-Cum-District Magistrate, Puri And Others...

RESPONDENT

Date of Decision : 02-06-2020

Acts Referred:

Citation : (2020) 06 OHC CK 0001

Hon'ble Judges : Mohammad Rafiq, CJ; Biswajit Mohanty, J

Bench : Division Bench

Advocate : Saswati Mohapatra, P. Mangaraj, Subir Palit

Final Decision : Dismissed

Judgement

The petitioner-Ramesh Chandra Mishra, by means of this writ petition, has approached this Court assailing the order dated 23.04.2020 (Annexure-6)

passed by the Collector, Puri (opposite party No.1).

According to Ms. S. Mohapatra, learned counsel for the petitioner, originally, an advertisement for lease of Morrum Sairat under OMMC

(Amendment) Rules, 2014 was published by the Tahasildar, Delanga (opposite party No.3) on 13.02.2015 and royalty of Rs.28 per CM was fixed by

the State authorities. All four Morrum Sairats were clubbed together in order to make cluster approach. The petitioner participated in bidding process.

One Shri Dushmanta Kumar Lenka was the highest bidder but he was absent on the date of bidding i.e. on 04.04.2015. In fact, the highest bidder

failed to deposit the bid amount within seven days. Even though the petitioner was the second highest bidder, the opposite parties-authorities, instead of

inviting the petitioner for grant of lease as per the provisions of Section 26(7) of the OMMC Rules, 2004, cancelled the tender process and decided to

invite fresh bid. In such background, the petitioner approached this Court by filing W.P.(Civil) No.8859 of 2015.

This Court initially passed an interim order on 13.05.2015 directing the authorities not to again put the Sairat in auction. The said writ petition remained pending for almost four years and was finally decided by this Court vide order dated 26.11.2019 (Annexure-5) whereby the letter dated 06.05.2015

(Annexure-4) issued by the Collector, Puri was quashed and the matter was remanded back to him for deciding the same in accordance with law

within four months from the date of receipt of certified copy of the order. In compliance with the said direction of this Court, the Collector, Puri has

now passed the impugned order under Annexure-6.

The Collector, Puri in the impugned order, has stated that as per the original advertisement inviting bids, the Morrum Sairat was required to be

awarded for a period of five years from 2015-16 to 2019-20 and since that period has already been over on 31.03.2020, the grievance of the petitioner

cannot be considered at this stage.

Ms. S. Mohapatra, learned counsel for the petitioner argued that merely because the matter was pending before this Court for a long time and the

petition could not be decided early, the petitioner should not be penalised. The Collector, Puri has not properly followed the direction of this Court given

in the earlier writ petition. Learned counsel relying on the judgment of the Honâ??ble Supreme Court rendered in the case of Union of India and

others vs. Tarsem Singh, reported in (2008) 8 SCC 648, argued that despite delay and laches, the petitioner ought to be granted Morrum Sairat for a

period of five years from the date of the order passed by the opposite party-authority.

After going through the cited judgment, this Court is of the opinion that the said judgment has hardly any application to the facts of the present case.

There the dispute pertained to payment of arrears of disability pension. There the respondent had retired from Indian Army on 13.11.1983 and

approached the High Court in 1999 seeking a direction to the appellants to pay disability pension. While the learned Single Judge allowed the writ

petition however restricted the payment of arrears to thirty eight months prior to the filing of writ petition; the Division Bench in appeal allowed the

benefit to the respondent from the date it fell due without restricting it to a

period of thirtheight months with interest. The Honâ??ble Supreme Court set aside the order of Division Bench and restored the order passed by the learned Single Judge by observing that in a belated service related claim, relief can be granted, where such claim is based on continuing wrong however consequential relief of payment of arrears for past period, should be restricted to three years prior to the date of filing of writ petition. Here in the present case, it cannot be said that the petitioner is suffering a continuing injury on account of non-granting of lease in his favour like in a case of non-payment of disability pension, where cause of action arises every month.

Thus, the cited decision is factually distinguishable.

In the present case, undisputedly, the original advertisement inviting bids for lease of Morrum Sairat was for a period of five years commencing from

2015-16 to 2019-20. That period has already come to an end on 31.03.2020. Though after receipt of this Courtâ??s order under Annexure-5, on

13.01.2020, the opposite party No.1 has tried his best to obtain approved Mining Plan and EC, but as the same was a time consuming affair, he could

not obtain the same prior to 30.03.2020. In such background, we do not find any infirmity in the decision taken by the opposite party No.1-Collector,

Puri, who has also observed in the impugned order that fresh auction shall be undertaken and the petitioner shall be at liberty to participate in the said

auction process.

Accordingly, the writ petition having no merit, deserves to be dismissed and is dismissed.

As Lock-down period is continuing for COVID-19, learned counsel for the petitioner may utilize the soft copy of this judgment available in the High

Courtâ??s website or print out thereof at par with certified copies in the manner prescribed, vide Courtâ??s Notice No.4587, dated 25.03.2020.