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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.13631 of 2024

(An application under Articles 226 and 227 of the Constitution of India)

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M/s Balaji Solar Systems- M/s Unicorn India Private Limited (Joint Venture), registered office at Plot No.145, Mancheswar Industrial Estate, Mancheswar, Bhubaneswar-754202, Dist: Khordha, represented by its Authorized Signatory Sri Satyanarayan Sahoo, S/o late Suresh Chandra Sahoo .... ***Petitioners***

-versus-

1. ***State of Odisha,*** represented by its Principal Secretary, Panchayati Raj and Drinking Water Department, Government of Odisha, AT: Secretariat Building, Bhubaneswar, Dist: Khordha
2. ***The Director, DW and S,*** Panchayati Raj and Drinking Water Department, Government of Odisha, AT: Secretariat Building, Bhubaneswar, Dist: Khordha
3. ***The Engineer-in-Chief,*** Rural Water Supply and Sanitation, AT: Jal O Parimal Bhawan, Unit-V, Bhubaneswar, Dist: Khordha
4. ***M/s Ajay Infra and Construction Private Limited-M/s Jagdish Prasad Agrawal (Joint Venture),*** AT/PO: Kantabanji, Dist: Balangir-767039

5. ***M/s Surya International Enterprises Private Limtied,*** AT: A/24, BDA HIG Duplex, Anant Vihar Phase-2, Pokhariput, Bhubaneswar-751020

.... ***Opp. Parties***

Advocate for the parties

For Petitioner : Mr. Goutam Mukherjee, Senior Advocate being assisted by Mr. Sidhant Dwibedi, Advocate

For Opposite Parties : Mr. Debasis Tripathy, Additional Government Advocate (For Opposite Party Nos.1 to 3)

Mr. Prabodha Chandra Nayak, Advocate (For Opposite Party No.4)

CORAM:
JUSTICE K.R. MOHAPATRA
JUSTICE SANJAY KUMAR MISHRA

Date of Hearing: 10.04.2025 :: Date of Judgment : 27.05.2025

J U D G M E N T

K.R.Mohapatra, J

1. This matter is taken up through hybrid mode.

2. Petitioner, being the unsuccessful L3 bidder, has filed this writ petition assailing technical evaluation summary (Annexure-6) of the bid in question. It also assails the technical qualification of Opposite Party No.4 (the L1 bidder). Further, the Petitioner prays for a direction that the Opposite Party No.5 (L2 bidder) may be declared disqualified and to declare it (the Petitioner) as successful bidder.

3. Shorn of unnecessary details, the facts relevant for proper adjudication of the writ petition are as under:-

3.1 The Opposite Party No.2-Director, DW and S, Panchayati Raj and Drinking Water Department, Government of Odisha issued Request for Proposal (RFP) for execution of work, namely, '*Selection of Contractors/Executing Agency for Design, Engineering, Supply, Installation, Testing, Commissioning and Acceptance of Solar PV Integrated Dual Pump based Water Supply system through Off-Greed Mode including Laying of Distribution Pipe Lines and providing Functional Household Tap Connections (FHTCs) along with comprehensive maintenance for five (five) years pertaining to Nuapada and Phulbani Divisions in the State of Odisha*' (Package-VI) bearing Bid Identification No.EIC/RWSS-46_VI/2023-24 dated 18th September, 2023 (for brevity 'the RFP'). The Petitioner, Opposite Party No.4, Opposite Party No.5 and others filed their respective bids. The bid was required to be submitted in two parts; i.e., Technical Bid and Financial Bid. In the Technical Evaluation of the bids, seven bidders, including the Petitioner, Opposite Party Nos.4 and 5, were declared qualified and the bid summary was uploaded in the website on 3rd February, 2024 (Annexure-6). In the evaluation of financial bids, the Opposite Party No.4 was found to be L1; Opposite Party No.5 was declared L2 and the Petitioner was L3.

3.2. The Petitioner alleges following defects in the technical bid document submitted by Opposite Party No.4, which are briefly stated as under:-

(a) The bid security submitted by Opposite Party No.4 was defective;

(b) The Joint Venture Agreement submitted by Opposite Party No.4 was defective;

(c) Although Opposite Party No.4 did not claim benefit as a MSME, but the same was extended to Opposite Party No.4;

(d) The turnover certificate of Opposite Party No.4 was defective;

(e) There was delay on the part of Opposite Party No.4 to submit Performance Security and Additional Performance Security, which was not permissible.

On the touchstone of above-mentioned grounds, this writ petition has been filed claiming the relief, as aforesaid.

3.3 Mr. Mukherjee, learned Senior Advocate appearing for the Petitioner elaborated and explained the defects in the tender documents of Opposite Party No.4 with the following submissions.—

(i) The Opposite Party No.4 submitted a bid security of Rs.15,60,000/- as per Clause-1.3.7 of RFP. The bid security was submitted in the form of bank guarantee as per the format mentioned in Appendix-II. The bid identification number mentioned in the bid security submitted by Opposite Party No.4 was **EIC/RWSS-65_VI/22-23** whereas the Bid Identification number for which the RPF was invited was **EIC/RWSS-46_VI/2023-**

24. Further, the date mentioned in the bid security was '0*6.10.2023*', whereas the tender was floated on '*10.07.2023*'. Thus, the bid security submitted by Opposite Party No.4 ought to have been rejected outright.

(ii) The Opposite Party No.4 participated in the tender process as a Joint Venture (JV). As per the requirement in the RFP, the JV was required to submit a joint bidding agreement along with the bid documents. In the joint bidding agreement submitted by Opposite Party No.4, the bid identification number was mentioned as EIC/RWSS-45_VI/23-24 instead of EIC/RWSS-46_VI/2023-24. Thus, the technical bid of Opposite Party No.4 was liable to be rejected as per Clause 1.5.3.2 and 1.5.4.2 of the RFP.

(iii) Although Opposite Party No.4 filed MSME certificate along with bid document, but it did not claim exemption of EMD as MSME by furnishing EMD exemption certificate, as was submitted by the Petitioner along with its bid documents. But the technical bid of Opposite Party No.4 was accepted granting exemption of EMD as a MSME. On the other hand, the Petitioner claims exemption of EMD by furnishing EMD exemption certificate along with its bid documents. Merely because the Opposite Party No.4 filed MSME certificate along with its bid documents, it was not entitled to exemption of EMD in absence of an exemption certificate filed along with the bid document. Thus, the technical bid of Opposite Party No.4 was defective on this score also.

(iv) The Opposite Party No.4 had produced a fraudulent turnover certificate in order to make it eligible/qualified to participate in the tender process. The turnover certificate filed by Opposite Party No.4 along with its tender documents reveal that the turnover of the Opposite Party No.4 was Rs.8,36,35,368/- for the year 2020-21, whereas another turnover certificate of Opposite Party No.4 revealed that its turnover was Rs.19,76,59,032/- for the same year, i.e., 2020-21 issued by the same Chartered Accountant. The UDIN numbers given in both the turnover certificates are active till date and not even deactivated. The argument advanced by Opposite Party No.4 that turnover certificate of Rs.19,76,59,032/- was with M/s Greenco Systems Private Limited as Joint Venture and does not form part of tender document in question and present turnover certificate filed along with tender document was with the Jagdish Agarwal (JV). The said argument does not hold good as the turnover for rest of the years are identical in both the turnover certificates.

(v) It is further argued by Mr. Mukherjee, learned Senior Advocate that as per Clasue-1.6.2.3 of the bid (ITBs), the successful bidder, namely, Opposite Party No.4 was required to submit the Performance Security (as per Clause-1.6.3) within fifteen days from the date of issuance of Letter of Intent (LoI) failing which, the bid was liable for rejection and the bid security be forfeited. Further, the Additional Performance Security (APS) was required to be submitted within seven days failing which, the bid of the successful bidder, as per Clause-5.2.4.1 of the ITB, was liable to be cancelled and the bid security be forfeited. The Opposite Party No.4 in its counter affidavit, took a plea that due to imposition of Model Code of Conduct (for short, 'MCC') imposed by the Election Commission for the General Election, 2024, the Performance Security (PS) and Additional Performance Security (APS) could not be submitted in time. But the MCC (Annexure-1 to the rejoinder affidavit of the Petitioner) nowhere provided for an embargo or restraint from furnishing Performance Security (PS) and Additional Performance Security (APS). On the other hand, the MCC provided for permission of the Election Commission in signing of the MOU/Agreement. Further, the Opposite Party No.4 submitted the letter only on 28th March, 2024 praying for time to submit the PS and APS. From the counter affidavit of Opposite Party No.4, it appears that the Opposite Party No.4 had submitted the aforesaid letter for extension of time for submission of PS and APS before withdrawal of the MCC. Hence, it establishes that there was no impediment on the part of Opposite Party No.4 for submission of PS and APS during subsistence of Model

Code of Conduct. There being violation on the part of Opposite Party No.4 in submitting PS and APS as per the schedule mentioned in the tender document, its bid was liable to be rejected.

3.4 Mr. Mukherjee, learned Senior Advocate further argued that the Petitioner admittedly was L3 as would reveal from the financial bid summary annexed to the writ petition. Be that as it may, in the RFP, it is clearly stated that a successful bidder can be awarded up to two packages out of all the packages mentioned in the RFP. The Opposite Party No.5 was L2 as per the financial bid summary and Letters of Intent, in respect of two packages other than impugned package No.VI, have already been issued to Opposite Party No.5. Thus, in view of Clause-1.6.4 of the RFP, the Opposite Party No.5 cannot be awarded with the package No.VI even if the Opposite Party No.4 (L1) is declared unsuccessful/ disqualified in this Writ Petition and in that event, the Petitioner being the L3 would be awarded with the contract of the work under package-VI. He, accordingly prayed for allowing the writ petition and grant the relief claimed therein in favour of the Petitioner.

4. Mr. Mukherjee, learned Senior Advocates, placed reliance on the following case laws in favour of the Petitioner.

(a) ***Ireo Grace Realtech Private Limited Vs. Abhishek Khanna and others***; (2021) 3 SCC 241

(b) ***Kalpraj Dharamshi and other Vs. Kotak Investment Advisors Limited and another***; (2021) 10 SCC 401;

(c) ***Monarch Infrastructure (P) Limited Vs. Commissioner, Ulhasnagar Municipal Corporation Limited***; AIR 2000 SC 2272;

(d) ***Manikchand and Co. Vs. State of Manipur and others***; MANU/MN/0069/2017;

(e) ***Tirupati Constructions Vs. the State of Maharashtra and others***; 2021 SCC OnLine Bom 11044

5. Mr. Nayak, learned counsel for Opposite Party No.4 referring to the counter affidavit as well as additional affidavit filed by the Petitioner, in which the entire tender document of the Opposite Party No.4 has been annexed, made elaborate argument which is summarized in the line of objection/argument raised by Mr. Mukherjee, learned Senior Advocate appearing for the Petitioner, as follows;

(a) So far as objection with regard to bid security of Opposite Party No.4 is concerned, it is submitted that Opposite Party No.4 submitted MSME Certificate as well as required amount of bid security in the shape of bank guarantee with the name of the beneficiary. Although name of the work has been correctly stated in the bid security, but the issuing Bank inadvertently mentioned the bid identification number incorrectly. The bid identification number was inadvertently stated as EIC/RWSS/65_VI/2022-23 in the bank guarantee. The inadvertent error was at the end of the Bank issuing such bank guarantee, which was filed as bid security. Thus, the Opposite Party No.4 has no contribution to it. He further relied upon the ratio in the case of ***Poddar Steel Corporation Vs. Ganesh Engineering Works and others***; (1991) 3 SCC 273 and ***Sri Kaustav Sahu Vs. State of Odisha and others***; (2017) 3 OLR 342 and submitted that when the document, i.e., bank guarantee itself in clear terms mentioned the name of the work correctly, inadvertent error in Bid Identification number and the date of the tender in the bank guarantee would not invalidate the same. He further submitted that the issue was specifically clarified by seven members Technical Committee of the Tender Inviting Authority (for short, 'TIA') on 27th December, 2023 (Annexure-A/3 series to the counter affidavit of Opposite Party Nos.1 to 3). Further, considering the MSME/UDYAM Certificate furnished by Opposite Party No.4-JV, its EMD exemption was accepted in conformity with the tender conditions. The technical evaluation of the bids was held on 27th December, 2023 and 18th January, 2024. The result was published on 3rd February, 2024. If the Petitioner was aggrieved by the decision of the Technical Evaluation Committee (TEC), it could have challenged the same within a reasonable period. Instead, the writ petition was filed on 27th May, 2024, i.e., with a delay of 117 days that too after the Opposite Party No.4 was declared successful. In order to delay the entire process and harass the Opposite Party No.4, this writ petition has been filed. The price bid of the bidders was opened on 7th February, 2024 and

LoI has already been issued in favour of Opposite Party No.4, being the L1 bidder.

(b) Answering the objection raised by the Petitioner with regard to the joint bid agreement, Mr. Nayak, learned counsel for Opposite Party No.4 submitted that the same has not been pleaded in the writ petition. The joint bid agreement was in conformity with the tender conditions of RFP. Both the bidders of Opposite Party No.4-JV have duly signed the agreement. Further, the name of the work has been correctly stated in the joint bid agreement. The objection with regard to the joint bid agreement was also not raised by the Petitioner in its complaint submitted to the TIA. In view of the ratio in the case of ***Poddar Steel Corporation*** (supra) and ***Kaustav Sahu*** (supra), the objection raised by the Petitioner with regard to wrong mentioning of the Bid Identification number in the joint bid agreement merits no consideration, more particularly, when the name of the work and the date has been correctly stated in the joint bid agreement.

(c) An objection has also been raised with regard to MSME exemption granted in favour of Opposite Party No.4. Answering the same, Mr. Nayak, learned counsel submitted that Petitioner in its additional affidavit dated 11th December, 2024 filed the entire bid document submitted by Opposite Party No.4 (Annexure-3/C). From the above, it is apparent that Opposite Party No.4 had uploaded MSME Certificates of both the members of the JV along with the tender document.

Further, there is nothing in the tender document (RFP), which provides that the bidders if want exemption of EMD as MSME should make a claim in that regard by uploading MSME exemption Certificate. On the other hand, Clause-2(c) of the RFP clearly indicates that in order to claim exemption as MSME, a bidder has to upload the MSME Certificate, which has been complied with by Opposite Party No.4 by furnishing MSME Certificates of the members of the JV along with its bid document. He also drew attention to Clause 2(c) of the RFP, which is reproduced hereunder for ease of reference:-

> *"Instruction of Works Department Vide OM No.503 dated 17.01.2022 will be followed. The local MSEs/Start-Ups (as defined in Odisha MSME Development Policy, 2016 & as defined under para-7 (vi) of Odisha Start-up Policy-2016) are exempted from payment of EMD and on conclusion of the bidding process, if selected shall pay 25% of the value of Performance security."*

Thus, there was no error on the part of the Tender Evaluation Committee (TEC) in granting EMD exemption to the Opposite Party No.4. The said issue has already been clarified by the TEC on 27th December, 2023 (Annexure-A/3 to the counter affidavit of Opposite Party Nos.1 to 3) and the TEC has granted exemption of EMD to Opposite Party No.4 as per the MSME Certificates of both JV members in conformity with the tender conditions. The Petitioner had never also raised this ground before the TEC. It has also not specifically raised the ground in the writ petition. When such objection raised at the time of argument has already been clarified by the seven member TEC of the TIA, such a misconceived objection should not be entertained at a belated stage.

Further, the Petitioner claimed EMD exemption by way of a separate application because one of the members of the Petitioner-JV had not uploaded MSME Certificate. Thus, the Petitioner is estopped to raise such a plea at a belated stage.

6. Mr. Nayak, learned counsel for Opposite Party No.4 also strongly refuting objection of forged turnover certificate raised by the Petitioner, made elaborate submission. It is submitted that the Opposite Party No.4 participated in the tender by submitting its bid on 18th November, 2023. Along with the tender document, Opposite Party No.4 also uploaded turnover certificate (Annexure-A/4 to its counter affidavit), issued by Chartered Accountant in compliance of Clause-4.2 of the RFP. The allegation of forged turnover certificate made by the Petitioner is an attempt to mislead this Court without disclosing the material facts, which was verified by the TEC consisting of seven technical members (Annexure-A/3 to the counter affidavit of State-Opposite Party Nos.1 to 3). Turnover certificate dated 19th June, 2022 referred to by the Petitioner was never uploaded by the Opposite Party No.4 and did not form part of the tender document. The turnover certificate uploaded by Opposite Party No.4 was issued on 3rd September, 2023 (Annexure-A/4) by the Chartered Accountant. The turnover certificate dated 19th June, 2022 referred to by the Petitioner was uploaded in a separate bid by one of the members of the Opposite Party No.4-JV for which the bidder was declared disqualified, as it was an incorrect one. Thus, the same has no bearing in the instant tender process. The objection raised by the Petitioner in the writ petition was also raised by one of the bidders-Law Line Marble, which was dealt with by the TEC and found the complaint to be not correct, as it was uploaded in a different tender process and the bid of the said bidder had already been held to be disqualified. Thus, he submitted that the objection raised has no bearing in the instant case.

7. Objection with regard to submission of the Performance Security (PS) and Additional Performance Security (APS) as raised by the Petitioner was also refuted by Mr. Nayak, learned counsel for Opposite Party No.4. It is submitted that the LoI was issued in favour of Opposite Party No.4 on 15th March, 2024 and it was directed to submit the Performance Security within fifteen days of issue of such LoI. But on the very next day, i.e., on 16th March, 2024, General Election, 2024 Model Code of Conduct (MCC) was implemented by the Election Commission providing certain restrictions. Due to implementation of MCC, Opposite Party No.4 could not furnish the Performance Security (PS) and Additional Performance Security (APS) in the form of bank guarantee within the time stipulated. Thus, the Opposite party No.4 intimated the Tender Inviting Authority (TIA) on 28th March, 2024 (Annexure-F/3 to the counter affidavit of Opposite Party Nos.1 to 3) to furnish the bank guarantee as well as other documents within seven days after lifting of the MCC, which was taken into consideration by the TIA. After lifting of the MCC, the Opposite Party No.4 furnished the total bank guarantee of Rs.3,84,15,000/- as PS and APS for execution of the agreement, which was duly accepted by the TIA. Further, the Petitioner itself admitted at para-10 of the writ petition that there was imposition of MCC for the General Election, 2024. As such, the TIA could not have accepted the PS and APS during continuance of MCC. It is further submitted that when the TIA, considering the imposition of MCC, allowed deferment of PS and APS and accepted the same on lifting of the MCC, the Petitioner could not have any objection to the same.

8. It is further submitted that admittedly the Petitioner is L3 as per the financial bid summery and Opposite Party No.4 is L1 having quoted 14.99% less than the cost of tender. Thus, the Opposite Party No.4 was rightly selected and was issued with LoI. The Opposite Party No.4 has also submitted PS and APS, which has already been accepted by the TIA. Thus, the objection raised by the Petitioner merits no consideration and the writ petition is liable for dismissal.

8.1 The writ petition has been filed to delay the tender process and to harass the Opposite Party No.4 in performing the work for which the RFP was invited. The Opposite Party No.4 also relied upon the case laws in the case of ***Afcons Infrastructure Limited Vs. Nagpur Metro Rail Corporation Limited and another***; (2016) 16 SCC 818 and ***Galaxy Transport Agencies Contractors Traders Transport and Suppliers Vs. New J.K. Roadways, Fleet Owners and Transport Contractors and others***; (2021) 16 SCC 808 and submitted that the TIA is in the best position to understand and appreciate the requirement and interpret the tender document. Mr. Nayak, learned counsel also relied upon the case laws in ***Silppi Construction Contractors Vs. Union of India and another***; (2020) 16 SCC 489, ***Tata Motors Limited Vs. Brihan Mumbai Electric***

Supply and Transport Undertaking (BEST) and others; 2023 SCC OnLine SC 671, which dealt with the scope of interference of Constitutional Court in tender matters. On the objection of delay in filing the writ petition, the Opposite Party No.4 relied upon the case law in ***M/s Tamil Nadu General and Distribution Corporation Limited (TANGEDCO) and another Vs. CSEPDI-TRISHE CONSORTIUM and another;*** (2017) 4 SCC 318. So far as objection regarding alleged forged documents is concerned, Opposite Party No.4 relied upon the case law in ***Nabam Tullon LLP Vs. State of Arunachala Pradesh and others***; 2024 SCC OnLine Gau 1404. On the objection of delay in deposit of PS, Mr. Nayak, learned counsel relied upon the case law in ***Bharat Cooking Col Limited and others Vs. AMRDEV Prabha and others***; (2020) 16 SCC 759. The Opposite Party No.4 also relied upon the case law in ***AIR India Vs. Cochin International Airport Limtied***; (2000) 2 SCC 617, which emphasizes that larger public interest, which should always be kept in mind while entertaining an application under Article-226 of the Constitution in the matter of such tender.

9. The matter was heard on several occasions and we have heard Mr. Tripathy, learned AGA for Opposite Party Nos.1 to 3 in detail. It was his submission that Clause-2 of the RFP clearly stipulates that instruction of the Works Department, vide OM No.503 dated 17th January, 2022, was to be followed in the matter of RFP in question. Local MSMEs/Start-Ups, as defined in Odisha MSME Development Policy, 2016 and para-7 (vi) of Odisha Start-up Policy, 2016, are exempted from EMD and at the conclusion of bidding process, if selected, shall pay 25% of the value of Performance Security. The MSMEs/Start-Ups, which participated in the bidding process, were only required to upload MSME/UDAYAM Certificate at the time of submission of bid. The Opposite Party No.4 submitted MSME Certificate of both the members of its JV, which was categorically admitted by the Petitioner in its additional affidavit. The Opposite Party Nos.1 to 3 in their counter affidavit also categorically stated that MSME Certificate of Opposite Party No.4 was furnished along with its technical bid and the same were verified by the Technical Committee in its meeting held on 27th December, 2023, wherein, it was observed that bank guarantee furnished in the same tender did not match with the tender bid ID EIC/RWSS/46-III/23-24, but taking into consideration the OM No.503 dated 17th January, 2022 of the Works Department, Government of Odisha, Opposite Party No.4 was exempted from payment of bid security/EMD. Thus, the Committee accepted the technical bid of Opposite Party No.4 and held it to be correct in the technical evaluation summery. On 18th January, 2024, the Technical Committee in its 2nd meeting considered the complaints raised against Opposite Party No.4-JV by one Law Line Marble and held it to be not correct, as the same was meant for different ID and different tender. As per the technical evaluation summery dated 3rd February, 2024, the Petitioner, Opposite Party Nos.4 and 5 along with four other bidders were technically qualified. On 7th February, 2024, the financial bids of the technically qualified bidders were opened. On scrutiny of the said financial evaluation summery, Opposite party No.4 became the lowest bidder quoting 14.99% less than the value of the tender. Opposite Party No.5 was the 2nd lowest bidder having quoted 11.0% less and the Petitioner was the third lowest bidder quoting 10.3% less. The Petitioner raised an objection that Opposite Party No.4 did not submit any letter regarding exemption of EMD as MSME. Such contention of the Petitioner is baseless, as there was no provision in the RFP requiring the bidder to make a request for exemption of EMD being a MSME. Furnishing of MSME/UDAYAM Certificate as per Clause-2 (c) of RFP is sacrosanct to claim exemption of EMD. The Opposite Party No.4 had submitted the MSME certificates of both the members of the JV. Thus, Opposite Party No.4 was exempted from EMD.

10. It is further submitted by Mr. Tripathy, learned AGA that objection of the Petitioner regarding delayed submission of PS and APS by Opposite Party No.4 after the cut-off date is baseless and merits no consideration. The Opposite Party No.4, being the successful bidder, was directed to furnish PS and APS in the form of bank guarantee within fifteen days from the date of issue of LoI, but on the very next day of issuance of such letter, MCC for General Election, 2024 was implemented. Thus, the Opposite Party No.4 requested to furnish the PS and APS within fifteen days of lifting of the MCC. The said request of Opposite Party No.4 was accepted. Relying upon the case law in ***Bharat Cooking Col Limited (supra)***, Mr. Tripathy, learned AGA submitted that there is no prohibition against public authorities for grant of extension of time to the successful bidder for furnishing PS and APS for *bona fide* reasons. Even if there is minor deviation from explicit terms of NIT, it would not be sufficient by itself in the absence of any *mala fide* for the Court to set aside the tender at the behest of an unsuccessful bidder. In the instant case, imposition of MCC itself restricted the TIA to proceed with the tender process by accepting PS and APS. Further, within a reasonable time after lifting of the restriction imposed in MCC, the Opposite Party No.4 furnished the PS and APS in the form of bank guarantee, which was accepted by the TIA. As such, implied extension granted to Opposite Party No.4 for *bona fide* reason of imposition of MCC, should not be a ground to disqualify the Opposite Party No.4, who became the lowest and successful bidder after a cumbersome process of evaluation by the Technical Evaluation Committee. Mr. Tripathy, learned AGA also refuted the objection raised by the Petitioner with regard to allegation of submission of forged turnover certificate by the Opposite Party No.4. It was submitted that the allegation of submission of forged turnover certificate was verified by the TIA comprising of seven technical members. The Petitioner referred to turnover certificate dated 19th June, 2022, which was never uploaded by Opposite Party No.4 along with its tender document. The same was also not a part of the tender document nor the Opposite Party No.4 had ever relied upon the same in the instant tender process. The turnover certificate furnished by Opposite Party No.4 (Annexure-A/4) was verified and found to be valid. Therefore, such objection raised by the Petitioner is not only incorrect but also thoroughly misconceived. As such, he prayed for dismissal of the writ petition. In support of his case, Mr. Tripathy, learned AGA relied upon the case laws in the case of ***Bharat Cooking Coal Limited*** (supra), ***Galaxy Transport Agencies Contractors Traders Transport and Suppliers*** (supra) as well as ***Silppi Constructions Contractors*** (supra).

11. Learned counsel for the parties were heard at length. This Court perused the documents as well as case laws referred to by learned counsel for the parties in course of argument.

12. The admitted position in this writ petition is that, pursuant to invitation of RFP by Opposite Party No.2, the Petitioner, Opposite Party Nos.4 and 5 as well as others submitted their bids. In total, seven bidders were found to be technically qualified as per the technical evaluation summery. On evaluation of the financial bids, Opposite Party No.4 was adjudged to be the lowest bidder having quoted 14.99% less than the tender cost; Opposite Party No.5 was found to be the 2nd lowest bidder quoting 11% less and the Petitioner was found to be 3rd lowest bidder having quoted 10.3% less than the tender cost. Thus, the Opposite Party No.4 was found to be the successful bidder and LoI has already been issued in its favour. The Opposite Party No.4, whose selection is in question in the present writ petition, is a Joint Venture. Both members to the JV are MSMEs. Thus, they furnished MSME/UDAYAM Certificate along with the bid document. They have also submitted joint bidding agreement of the JV as required under the RFP. The Opposite Party No.4 had also submitted the bid security, though it had submitted MSME/UDAYAM Certificate.

13. For the sake of convenience, this Court discussed the objections raised by the Petitioner in the seriatim mentioned while discussing the case of the Petitioner as follows:-

(i) **Defective Bid Security**

It is contended by the Petitioner that Opposite Party No.4 submitted bid security of Rs.15,60,000/- as per Clause- 1.3.7 of the RFP. The bid ID mentioned in the bid security, which was submitted in the form of bank guarantee, was mentioned as EIC/RWSS-65_VI/2022-23, whereas the bid ID of RFP in question was EIC/RWSS-46_VI/2023-24. The date of tender mentioned in bid security furnished by Opposite Party No.4 was '*06.10.2023*', whereas the invitation of RFP in question was floated on 27th October, 2023. The bid security was executed on 6th October, 2023, i.e., prior to the date floating of RFP. Thus, the bid security of Opposite Party No.4 could not have been accepted. Such objection was strongly refused by the TIA-Opposite Party Nos.1 to 3 as well as the successful bidder, namely, Opposite Party No.4. According to them, the Opposite Party No.4 was not required to submit the bid security, as both the members of the JV had furnished their respective MSME/UDAYAM Certificates. Mr. Nayak, learned counsel for Opposite Party No.4 submitted that the successful bidder had no contribution in reflecting inadvertent bid ID in the bid security. Concerned Bank had prepared it. Further, name of the work of the RFP was correctly stated in the bid security. Thus, there was no ambiguity in respect of the bid security, which was furnished. He further submitted that such an inadvertent error of furnishing incorrect bid ID as well as date has no bearing on evaluation of the tender document of the Petitioner during technical evaluation, as Opposite Party No.4 had submitted the MSME/UDAYAM Certificates as per Clause-2 (c) of the RFP, which clearly stipulated that "*Instruction of Works Department Vide OM No.503 dated 17.01.2022 will be followed. The local MSEs/Start-Ups (as defined in Odisha MSME Development Policy, 2016 & Start-ups as defined under para-7 (vi) of Odisha Start-up Policy-2016) are exempted from payment of EMD and on conclusion of the bidding process, if selected shall pay 25% of the value of Performance security.*" Thus, a close reading of the aforesaid Clause-2(c) of the RFP, clearly indicates that the bidders, who furnished MSME/UDAYAM Certificate, are exempted from payment of EMD. Admittedly, both the members of the Opposite Party No.4-JV are MSMEs and they had furnished their respective MSME/UDAYAM Certificates. Thus, in view of Clause-2 (c) of RFP, they are exempted from payment of EMD. Only because the Opposite Party No.4 had furnished the bid security in the form of bank guarantee, which was stated to be a defective one, it could not have been assumed that it was required to furnish EMD. When the Opposite Party No.4-JV, being MSMEs, are exempted from payment of EMD, furnishing of EMD being defective one, does not render it disqualified in the technical bid. In addition to the above, the TIA, considering the MSME/UDAYAM Certificates furnished by Opposite party No.4, exempted it from payment of EMD. Thus, the Petitioner cannot have any objection to the same when the

Technical Evaluation Committee, comprising of seven technical members, accepted the MSME/UDAYAM Certificates furnished by Opposite Party No.4-JV and exempted it from payment of EMD. No *mala fide* or arbitrariness can be attributed to the TIA in granting exemption to Opposite Party No.4 from payment of EMD, when they are entitled to the same in view of Clause- 2 (c) of the RFP.

(ii) **Defective Joint Bidding Agreement for JV**

The objection with regard to the defective joint bidding agreement was neither pleaded nor specifically raised in the writ petition. The said objection was apparently not raised before the TIA by the Petitioner. However, Mr. Mukherjee, learned Senior Advocate, appearing for the Petitioner, raised such objection in course of argument and also reflected the same in its written argument. Hence, the same is taken into consideration. Mr. Mukherjee, learned Senior Advocate submitted that the bid identification number was incorrectly stated in the Joint Bidding Agreement of Opposite Party No.4, which is a Joint Venture. The bid ID, as mentioned in the joint bid agreement, was EIC/RWSS/45_23-24, which was not the correct bid identification of the RFP in question. Hence, it was contended that the joint bid agreement for JV, being a defective one, should have been rejected outrightly and the technical bid of Opposite Party No.4 ought to have been rejected as per Clause-1.5.3.2 and 1.5.4.2 of the RFP. Admittedly, in the joint bidding agreement for JV filed by Opposite Party No.4, the bid ID number was stated as EIC/RWSS-45_vi 2023-24 dated 18th September, 2023. But the name of the work has been correctly stated at Clause-'A' of the said joint bidding agreement. In the case of ***Poddar Steel Corporation*** (supra), it is held as follows:-

> *"……As a matter of general proposition it cannot be held that an authority inviting tenders is bound to give effect to every term mentioned in the notice in meticulous detail, and is not entitled to waive even a technical irregularity of little or no significance. ...."*

In the instant case, save and except the digit '*45*' in place of '*46*', rest of the bid particulars were correctly stated in the Joint Bidding Agreement. The same does not significantly affect the technical qualification of eligibility of Opposite Party No.4, more particularly when the name of the work (RFP) and date of the tender along with other particulars have been correctly stated in the joint bidding agreement. The inadvertent mistake in mentioning the bid ID itself does not, in any manner, influence either the identity of the bidder (JV) or the requirement of furnishing the joint bidding agreement. Moreover, such an objection was not raised before the Technical Evaluation Committee or immediately thereafter. It is raised for the first time in course of argument. When the identity of either the bidder or the work to be performed is in no manner affected by stating the digit, i.e., '45' in place of '46' inadvertently, the same does not in any manner attract Clause- 1.5.3.2 and 1.5.4.2 of the RFP. Clause 1.5.3.2 of the RFP relates to examination of technical bids. The parent Clause 1.5.3 of the RFP deals with *'Qualification of the Bidder'*. Clause- 1.5.3.2 thereunder reads as under:-

> *"1.5.3.2. RWS&S, ODISHA shall confirm that all the requirements have been provided in the Technical Bid in all*

respect. If any of the documents or information is missing, the Bid shall be liable for rejection."

In view of the discussion made above, the Petitioner has not made any case to invoke Clause-1.5.3.2 of the RFP.

13.1 Parent Clause- 1.5.4 of the RFP deals with *'Responsiveness of the Technical Bid'***.** Clause 1.5.4.2 thereunder, which is relied upon by the Petitioner, reads as under:-

> *"1.5.4.2. If a Bid is not responsive to the requirements of the RFP, it shall be liable for rejection by RWS&S, ODISHA and may not subsequently be made responsive by correction of the material deviation, reservation, or omission."*

14. In the instant case, no case is made out by the Petitioner that the technical bid of Opposite Party No.4 JV was not responsive. It was responsive in all manner. But inadvertently, number in the bid ID has been stated as '*45*' in place of '*46*' in the joint bidding agreement. When the name of the work (RFP) and the date of the tender, were correctly sated in the joint bidding agreement submitted by Opposite Party No.4 JV, this Court is constrained to reject the said objection raised by the Petitioner.

(iii) **<u>Exemption as MSME not claimed, but granted</u>**

15. It is argued by Mr. Mukherjee, learned Senior Advocate that the Opposite Party No.4 did not claim for MSME exemption although it had furnished the MSME/UDAYAM Certificate of both the members of Opposite Party No.4-JV. It is his submission, like the Petitioner, an application should have been filed by the Opposite Party No.4 along with MSME Certificates claiming exemption of EMD. Such claim for exemption of EMD having not been made, the Technical Evaluation Committee could not have granted EMD exemption to Opposite Party No.4-JV. It is his submission that by its conduct, Opposite Party No.4-JV waived its right of claiming exemption of EMD.

16. Mr. Tripathy, learned AGA and Mr. Nayak, learned counsel for Opposite Party No.4 made submissions in the light of Clause-2(c) of the RFP, which deals with instruction of the Works Department in OM No.503 dated 17th January, 2022. They unequivocally submitted that as per Clause-2(c) of the RFP, instruction issued by the Works Department in the office memorandum has been followed in its letter and spirit. According to them, aforesaid office memorandum dated 17th January, 2022 of the Works Department clearly stipulates that local MSEs / Start-ups [as defined in MSME Development Policy, 2016 and para 7 (vi) of the Odisha Start-up Policy, 2016] are exempted from payment of EMD. Both the members of Opposite Party No.4-JV are MSEs. They had also submitted their respective MSME/UDAYAM Certificate along with the tender document. Thus, the Opposite Party No.4 was not required to make any specific claim for exemption of EMD in view of instructions/Guidelines of the Works Department in OM No.503 dated 17th January, 2022. It is their submission that the Petitioner had, in fact, filed an application claiming exemption of EMD as a MSME, but it was not required under the terms and conditions of the RFP to make any such specific claim. Further, the issue with regard to exemption of EMD by Opposite Party No.4 was discussed by the seven members

Technical Committee while evaluating technical bid of the bidders. Discussing the same, the Technical Evaluation Committee, exempted Opposite Party No.4 from payment of EMD. It is further submitted that the Petitioner has neither raised any specific objection in this regard before the Technical Evaluation Committee nor any specific ground has been taken in the writ petition with regard to exemption of EMD of Opposite Party No.4.

17. In view of the rival contentions raised by learned counsel for the parties, this Court scrutinized the relevant provisions of RFP as well as bid documents of Opposite Party No.4 filed by the Petitioner along with its additional affidavit dated 11th December, 2024. Clause-2 of the RFP deals with important note as quoted herein above (supra). Thus, the Clause-2(c) itself makes it clear that the MSEs and Start-ups are exempted from payment of EMD. In support of his case, the Opposite Party No.4 filed MSME/UDAYAM Certificates of both the members of the JV. Thus, in our considered opinion, filing of MSME/UDAYAM Certificates of both members of the JV is sufficient for granting exemption to the Opposite Party No.4 from payment of EMD. Nowhere in the RFP, it is instructed or stated that a bidder has to make a specific claim by filing an application for exemption of EMD. The Petitioner might have filed an application claiming exemption of EMD, but that does not become the rule to be applied to other bidder(s) who claim(s) exemption of EMD being MSME/Start-up.

(iv) **Waiver of right to claim exemption of EMD**

18. The next question arises for consideration, which is a sequel of the objection of the Petitioner to file separate application for exemption of EMD, is as to whether by furnishing the bid security in the form of bank guarantee, the Opposite Party No.4 has waived its right of exemption of EMD or not. True it is that, the Opposite Party No.4 had filed bid security in the form of bank guarantee. When the Opposite Party No.4 filed MSME/UDAYAM Certificates of both the members of the JV, it was not required to furnish bid security in the form of bank guarantee. Mr. Mukherjee, learned Senior Advocate submitted that by furnishing such bid security, though defective one, the Opposite party No.4 has waived its right of exemption of EMD. In support of his case, he relied upon the case law in ***Kalpraj Dharamshi*** (supra), wherein, at para-117 and 118, it is held as under:-

> *"117. The word 'waiver' has been described in Halsbury's Laws of England, 4th Edn., Para 1471, which reads thus:*
>
> *"1471. Waiver.—Waiver is the abandonment of a right in such a way that the other party is entitled to plead the abandonment by way of confession and avoidance if the right is thereafter asserted, and is either express or implied from conduct. ...*
>
> *118. In Halsbury's Laws of England, Vol. 16(2), 4th Edn., Para 907, it is stated:*
>
> *"**The expression 'waiver' may, in law, bear different meanings. The primary meaning has been said to be the abandonment of a right in such a way that the other party is entitled to plead the abandonment by way of confession and avoidance if the right is thereafter asserted, and is either express or implied from conduct**. It may arise from a party making an election, for example whether or not to exercise a contractual right… Waiver may also be by virtue of equitable or promissory estoppel; unlike waiver arising from an election, no question arises of any particular knowledge on the part of the person making the representation, and the estoppel may be suspensory only… **Where the waiver is not express, it may be implied from conduct which is inconsistent with the continuance of the right, without the need for writing or for consideration moving from, or detriment to, the party who***

> ***benefits by the waiver, but mere acts of indulgence will not amount to waiver; nor may a party benefit from the waiver unless he has altered his position in reliance on it**."*
>
> (*emphasis supplied*)

It is, thus submitted that '*waiver*' is an intentional relinquishment of a right. It involves conscious abandonment of an existing legal right, advantage, benefit, claim or privilege, which except for such a waiver, a party could have enjoyed. In fact, it is an agreement not to assert a right. There can be no waiver unless the person said to have waived, is fully involved as to his rights and with full knowledge about the same that he intentionally abandons the same. It is alleged that the Opposite Party No.4, being informed about the terms and conditions of the RFP and being fully conscious of the same, furnished the bid security. Thus, the conduct of Opposite Party No.4 acts as a waiver of its right to claim exemption of EMD. We are unable to accept the contention, inasmuch as, the Opposite Party No.4 along with the bid documents furnished MSME/UDAYAM Certificate of both the members of the JV. Thus, the Opposite Party No.4 by its conduct intended an exemption of EMD, but it had submitted the bid security along with tender documents. Thus, in our considered opinion, the Opposite Party No.4 never waived his right of claiming exemption of EMD. In addition to its claim for exemption of EMD by furnishing MSME/UDAYAM Certificate, the Opposite Party No.4, as an abundant caution, furnished bid security in the form of bank guarantee, which was not at all required to be furnished by it as an MSME. Thus, this Court is of the view that, the doctrine of waiver has no application to the instant case, as claimed by Mr. Mukherjee, learned Senior Advocate. As such, the objection of the Petitioner with regard to MSME exemption not claimed is overruled.

(v) **Defective Turnover Certificate by Opposite Party No.4**

19. It is submitted by Mr. Mukherjee, learned Senior Advocate appearing for the Petitioner that the Opposite Party No.4 had submitted fraudulent turnover certificate just to fit itself in the tender process. It is submitted that the turnover certificate dated 19th May, 2022 of the Opposite Party No.4 stipulates that the turnover of the Opposite Party No.4 for the financial year 2020-21 was Rs.19,76,59,032/- issued by Chartered Accountant. The same Chartered Accountant issued another turnover certificate on 3rd September, 2023 disclosing the turnover of Opposite Party No.4-JV for the said financial year 2020-21 to be Rs.8,36,35,368/-. The Opposite Party No.4 had submitted a fraudulent turnover certificate dated 3rd September, 2023, which was accepted by the Technical Evaluation Committee. Thus, it was alleged by the Petitioner that the Opposite Party No.4 played fraud upon the TIA to get the work in its favour. Mr. Tripathy, learned AGA appearing for Opposite Party Nos.1 to 3 and Mr. Nayak, learned counsel for Opposite Party No.4 contended that the turnover certificate dated 19th May, 2022 (page 230 of the writ petition) relates to one of the members of the Opposite Party No.4-JV, who had submitted the same in another tender and its bid was held to be disqualified because of erroneous turnover certificate. The said turnover certificate dated 19th May, 2022, although issued by the same Chartered Accountant, was never formed part of the tender documents filed by the Opposite

Party No.4 pursuant to instant RFP. On the other hand, the turnover certificate dated 3rd September, 2023 of the Opposite Party No.4-JV (page 218 of the writ petition) formed part of tender document of the instant tender process and was taken into consideration by the TIA. Thus, the previous turnover certificate has no bearing for assessment of the bid documents of Opposite Party No.4 in the present tender in question. Thus, they contended that such objection has no bearing on evaluation of the tender document of Opposite Party No.4 in the present RFP/tender.

20. In order to appreciate the rival contentions of the parties, this Court verified both the turnover certificates. The turnover certificate dated 3rd September, 2023 was filed by the JV, namely, M/s Ajay Infra and Construction Private Limited (previously known as Sri Ajay Kumar Agrawal)-M/s Jagdish Prasad Agrawal (Joint Venture) in the instant tender process. Both the turnover certificates dated 19th May, 2022 (at page-230 and page-218 of the writ petition) were issued by the selfsame Chartered Accountant. Turnover Certificate dated 19th May, 2022 in which, the turnover of one of the members of the JV, namely, M/s Ajay Infra and Construction Private Limited (previously known as Sri Ajay Kumar Agrawal), was shown to be Rs.90,76,59032/-. But, the same was not furnished along with the present bid documents. The turnover certificate dated 3rd September, 2023 in which, the turnover of the said member of the JV for the year 2020-21 was sworn to be Rs.8,36,35,368/-, was filed along with the instant bid documents and was taken into consideration by the TIA. The turnover certificate dated 19th May, 2022 has no bearing on the present case as it was not part of the bid documents. It is also contended by Opposite Party No.4 that one of the members of the JV had furnished the said turnover certificate in another tender for which the bid of the said member was cancelled. Furnishing an erroneous turnover certificate in another tender does not disqualify the Opposite Party No.4 either to participate in the present tender process or to furnish correct turnover certificate, which was in fact filed along with the bid documents of present RFP. The Petitioner has not furnished any material to show or at least make out a *prima facie* case that turnover certificate dated 3rd September, 2023 (page 218 of the writ petition) of one of the members of the Opposite Party No.4-JV, namely, M/s Ajay Infra and Construction Limited is either erroneous or obtained fraudulently. On the other hand, the Technical Evaluation Committee had scrutinized the bid documents along with turnover certificate dated 3rd September, 2023 filed by the Opposite Party No.4 and accepted the same to be correct. In fact, one of the bidders, namely, Law Line Marble had raised such an objection before the Technical Evaluation Committee. After scrutinization of the documents, seven members Technical Committee overruled the said objection and accepted the turnover certificate submitted by Opposite Party No.4-JV dated 3rd September, 2023. Hence, the contention of Mr. Mukherjee, learned Senior Advocate with regard to the defective turnover certificate is not sustainable and is accordingly overruled.

(vi) **<u>Delay in submission of Performance Security and Additional Performance Security</u>**:-

21. It is submitted by Mr. Mukherjee, learned Senior Advocate that Opposite party No.4 was required to furnish the PS and APS within fifteen days from the date of issue of the LoI. The Opposite Party No.4, being adjudged as successful bidder, was issued with LoI on 15th March, 2024, but the PS and APS was not furnished within fifteen days as per the requirement of RFP. It is contended that the Opposite Party No.4 had taken the plea of imposition of MCC for General Election, 2024. It is submitted that there was no restriction in the MCC which would have restricted Opposite Party No.4 in furnishing PS and APS within the stipulated period, but taking such a plea, it delayed the payment of PS and APS and the TIA arbitrarily accepted the PS and APS much beyond the stipulated period, which is not only *mala fide* but also violates the terms and conditions of the RFP itself.

21.1 Mr. Nayak, learned counsel for Opposite Party No.4 contended that although the LoI was issued on 15th March, 2024 in its favour, the Opposite Party No.4 and it was directed to furnish the PS and APS in the shape of bank guarantee within fifteen days therefrom, but on the very next day, i.e., on 16th March, 2024 MCC of General Election, 2024 was implemented restricting the execution of the contract work.

21.2 Since MCC was implemented, the Opposite Party No.4 on 28th March, 2024 requested the Opposite Party No.2 to deposit the PS and APS within seven days of lifting of MCC, which was accepted. After lifting of the MCC, the Opposite Party No.4 furnished PS and APS to the tune of Rs.3,84,15,000/- for execution of the agreement, which was duly accepted by the TIA. Thus, there was no illegality or irregularity either on the part of Opposite Party No.4 in making payment of PS and APS immediately after lifting of the MCC or on the part Opposite Party Nos.1 to 3 in accepting such PS and APS. Mr. Tripathy, learned AGA also reiterated the submission made by Mr. Nayak, learned counsel for Opposite Party No.4. It is his submission that due to imposition of MCC for General Election, 2024 neither the Opposite party No.4 could furnish PS and APS within the time stipulated nor was the TIA in a position to accept the same. Request made by Opposite Party No.4 for extension of time to furnish the PS and APS within seven days of lifting of MCC was duly accepted by the TIA. Extension of time for furnishing PS and APS is within the domain of the TIA; so, no fault can be found with Opposite Parties in accepting the same.

22. Upon hearing learned counsel for the parties and on perusal of restrictions imposed in the compendium of instruction of General Election, 2024 Model Code of Conduct (Annexure-1/4 to the rejoinder affidavit filed by the Petitioner), we find that the MCC came into effect on 16th March, 2024. It has elaborately discussed the restrictions imposed during continuance/imposition of the said MCC. Admittedly, the LoI was issued on 15th March, 2024 to deposit PS and APS within fifteen days therefrom. Due to imposition of the MCC from the very next day, the Opposite Party No.4 made a request to the TIA on 28th March, 2024 to furnish PS and APS within seven days from the date of lifting of the MCC. The request of the Opposite party No.4 was accepted by the TIA. We find no infirmity or illegality on the part of the TIA in accepting the request of the Opposite Party No.4 for extension of time to furnish the PS and APS within seven days of lifting of the MCC. The TIA was well within its competence and jurisdiction in extending the period of furnishing PS and APS by Opposite Party No.4 due to imposition of restriction in MCC. Indisputably, the Opposite Party No.4 deposited the PS and APS in the form of bank guarantee immediately after lifting of the restrictions of MCC.

23. An argument was raised by Mr. Mukherjee, learned Senior Advocate for the Petitioner that a request could have been made by Opposite Party No.4 to the Election Commission to furnish the PS and APS. Only because no request was made to the Election Commission to permit the Opposite Party No.4 to furnish the PS and APS and for acceptance of the same by the TIA was not made, that does not render acceptance of the PS and APS by the TIA after lifting/withdrawal of MCC vulnerable. In order to avoid further complications in proceeding with the contract, Opposite Party Nos.1 to 3 have rightly accepted the request made by the Petitioner extending the period for furnishing PS and APS and have also committed no error in accepting the same after lifting/withdrawal of MCC. Hence, we find no substance in the submission of learned Senior Advocate in the regard.

24. It is submitted by Mr. Mukherjee, learned Senior Advocate that in the event the writ petition is allowed, the Opposite Party No.5, who is the L_2 bidder, cannot be awarded with the contract as it had already been awarded with two packages. Thus, the Petitioner being the L3 can be awarded with such contract in respect of package No.VI. Although it is correct to submit that as per the tender conditions, a successful bidder cannot be awarded with more than two packages and the Opposite Party No.5 has already been awarded with two packages, but the submission of Mr. Mukherji, learned Senior Advocate for awarding package No.VI in favour the Petitioner does not hold good as we find no illegality or irregularity or arbitrariness in awarding the package No.VI to Opposite Party No.4.

25. Before parting with the judgment, we make it clear that we have not dealt with all the case laws cited by learned counsel for the parties and have only referred to those relevant for just adjudication of the case.

26. In view of the discussions made above, we are of the considered opinion that the writ petition merits no consideration and is accordingly dismissed. In the facts and circumstances, there shall be no order as to costs.

(K.R. Mohapatra)
Judge

(S.K.Mishra)
Judge

The High Court of Orissa, Cuttack
Dated the 27th day of May, 2025/ s.s.satapathy