

02. 31.08.2017 Learned counsel for the parties agree that the issue involved in this writ petition with regard to Office Memorandum dated 04.05.2016 issued by the Works Department of the Government of Odisha is identical to one involved in W.P.(C) No. 7120 of 2017 and it is, thus, contended that this writ petition may be disposed of in term of the said judgment.

Accordingly, for the reasons given in the judgment dated 24.07.2017 passed in W.P.(C) No. 7120 of 2017 (Ajay Kumar Jain vs. State of Odisha and others), this writ petition also stands allowed to the extent that the condition imposed by Office Memorandum dated 04.05.2016 by amending Para-3.5.5(v) of Note-II of OPWD Code Vol. 1 by modifying the same and providing that Additional Performance Security (APS) of the amount of difference between the estimated cost and the cost of bid (if lower than the estimated cost) is to be provided at the time of submission of the bid, is quashed.

The said condition of providing Additional Performance Security of the amount of difference can be imposed only for a successful bidder which can be required to be provided within such stipulated time as may be provided for, or else the bid of the successful bidder would be cancelled and the security deposit would be forfeited, if permissible in law, and further proceeding for blacklisting would be initiated as per law.

We make it clear that we are not expressing any opinion with regard to Office Memorandum dated 08.11.2013 or with regard to other prayers made in the writ petition, as the prayer for quashing the Office Memorandum dated 04.05.2016 alone has been considered. No order as to costs.

This writ petition thus stands disposed of.

Urgent certified copy of this order be granted on proper application.

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B. K. Nayak, J.

Dr. D. P. Choudhury, J.

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AKP