

**I.A. No.18130 of 2019**

06. 24.12.2019

The application has been filed by the Department-opposite party nos.2 and 3 for modification and/or correction of paragraphs-4 and 5 of the order dated 17.12.2019 passed in I.A.Nos.16085 and 17049 of 2019.

2. For ready reference, paragraph-4 of the said order dated 17.12.2019 is reproduced herein:

*“So far as IA No.16085 of 2019 is concerned, it would be open for the petitioner to challenge the order before the competent authority or Court of law by filing/initiating appropriate proceeding.”*

3. Heard learned counsel for the petitioners and learned Advocate General for the Department-opposite party nos.2 and 3.

4. It is submitted that the aforementioned observation made in Paragraph-4 of the order dated 17.12.2019 is required to be corrected for the reason that I.A.No.16085 of 2019 was filed by opposite party nos.2 and 3 i.e. the State and its Officer pursuant to the liberty granted by this Court vide order dated 21.10.2019 and not by the petitioner and the prayer made in the said I.A. was for recall of the directions contained in Paragraph-4 of the Order dated 21.10.2019 passed in W.P.(C) No.19722 of 2019. It is contended by learned Advocate General that the case of the petitioner does not fall under Section 8A(5) of the MMDR Act. As such, he cannot be given the benefit as directed in paragraph-4 of order dated 21.10.2019. Once the State Government decided that the lease of the

petitioners was covered under Section 8A(6) of the MMDR Act, the petitioner was not entitled to the benefit of the right to match the highest bid as provided under Section 8A(7) of the MMDR Act, 1957. It is thus contended by learned Advocate General that the direction at paragraph-4 of order dated 21.10.2019 is contrary to the provisions under Section 8A(7) of the MMDR Act.

5. Considering the submission made by learned counsel for the parties, we hereby clarify that in Paragraph-4 of the order dated 21.10.2019 with an observation that we have only given an option to the petitioner if he applies, he should be considered and decision will be taken in accordance with law. We had not expressed any opinion on merit of the case of the petitioner.

6. Further, it is clarified that the I.A.No.16085 of 2019 was filed by the State-opposite parties. As such, the words “so far as I.A. No.16085 of 2019 is concerned” be deleted from un-numbered paragraph-4 of order dated 17.12.2019.

7. The order dated 17.12.2019 is modified and/or clarified to the above extent only.

I.A stands disposed of accordingly.

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( **K.S. Jhaveri** )  
**Chief Justice**

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( **K. R. Mohapatra** )  
**Judge**