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IN THE HIGH COURT OF DELHI AT NEW DELHI

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WP(C)No.5169/2008.

M/S BHAGWATI CONTRACTORS

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PETITIONER

Through : Ms. Anusuya Salwan, Adv.

Versus

UNION OF INDIA & ORS.

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RESPONDENTS

Through : Mr. S.K. Dubey, Mr. Deepak and Mr. Nitin Kumar
Sharma, Advs. for the respondents.
Mr. R.K. Maggu, Section Officer, Border
Management, MHA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

ORDER DATED

02.09.2008

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+ WP(C)No.5169/2008.

1. Issue notice to show cause as to why the petition be not admitted. Mr. S.K. Dubey, Advocate, accepts notice on behalf of the respondents. With the consent of the parties the writ petition is set down for final hearing.
2. The present petition has been filed under Article 226 of the Constitution of India seeking a direction to respondent no.4 to release funds to respondent nos.1-3 for the project work which was carried out by the petitioner on the instructions of respondent nos.1-3.
3. The petitioner is stated to be a Civil Contractor registered with the Central Public Works Department (CPWD) as a Class-I Contractor. The respondents had invited tenders for the work of C/o Embankment, Border Road, Security Fencing and BOP's on Indo-Pak Boarder from BP 976 to BP 1012 in Gujarat Sector SH:C/o Embankment and Road from RD 37 to 40 kms vide Agreement No.01/EE/BFD-V/Tharad/04-05. The tender of the petitioner was submitted and accepted on behalf of the President of India. The grievance of the petitioner is that despite the work having been completed to the entire satisfaction of the respondents No.1-3, the

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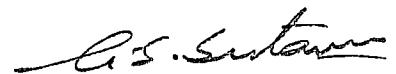
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payments have not been released only on the ground that the payments are to be released by respondent no.4 and respondent No.4 does not have the funds.

5. It is submitted by learned counsel for the respondents that although the entire work has been completed and payments are undisputed yet the same could not be released to the petitioner in view of the fact that the financial approval is required from the Cabinet and also for the reasons that the Budget was overrun and there are no finances available to make the payment. Counsel further submits on instructions from Mr. R.K. Maggu, Section Officer, Border Management, MHA, who is present in Court states that he is authorized to make a statement that a proposal in this regard, has already been sent to the Finance Ministry and they will send/forward the same to the Cabinet for providing Additional Funds. Mr. R.K. Maggu, Section Officer, submits that funds will be provided by respondent no.4 to respondent nos.1-3 and payments shall be released by respondent nos.1-3 to the petitioner within a period of four months from today.
6. In view of the statement made by Sh. R.K. Maggu, Section Officer, which he says, he is authorized to make, the writ petition stands disposed of with.

September 02, 2008
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G.S. SISTANI, J.