

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP(C) No. 766/2023

- 1. Akhter Javid Zarger, Age: 47 years
S/o Haji Mohammad Zarger
R/o Hyderpora, Srinagar.**
- 2. Manzoor Ahmad Rather, Age 45 years.
S/o Mohammad Ramzan Rather
R/o Nathusa Kupwara**
- 3. Imran Ahmad Bhat, Age 46 years.
S/o Ghulam Rasool Bhat
R/o Qamarwari Srinagar.**
- 4. Rayees Ahmad Kuchay, Age 47 years.
S/o Bashir Ahmad Kuchay
R/o Hyderpora, Srinagar.**
- 5. Jahangir Ahmad Bhat, Age 46 years.
S/o Late Wali Mohammad Bhat
R/o Baramulla, Khujbag.**
- 6. Siraj Ahmad Bhat, Age 46 years.
S/o Ghulam Mohammad Bhat
R/o Baghat Srinagar.**
- 7. Ghulam Mohammad Bhat, Age 46 years.
S/o Mohammad Abdullah Bhat
R/o Baghat Srinagar.**
- 8. Shahzada Shahnaz Ahmad, Age 47 years.
S/o Mohammad Sanal
R/o Falchal Budgam.**
- 9. Aiyaz Ahmad Khan, Age 47 years.
S/o Gulzar Ahmad Khan
R/o Khan Mohallah Chanpora, Srinagar.**
- 10. Feroz Ahmad Kuchay, Age 48 years.
S/o Mohammad Sultan Kuchay
R/o Humhama Srinagar.**
- 11. Abdul Hamid Mir, Age 49 years
S/o Abdul Samad Mir
R/o Midoora Tral Pulwama**
- 12. Abdul Ali Mantoo, Age 38 years.
Ali Mohammad Mantoo
R/o Litter Pulwama.**
- 13. Mohammad Sikander Lone, Age 35 years.
S/o Abdul Majeed Lone
R/o Shopian, Bungam**
- 14. Gowhar Ahmad Mir (Shahabad Constructions)
S/o Abdul Salam Mir, Age 35 years.
R/o Dooru Anantnag.**

**15. Bashir Ahmad Bangroo, Age 37 years
S/o Ahad Bangroo.
R/o Batatmaloo, S.D. Colony.**

..... Petitioner(s)

Through: Mr. Firdous Ahmad Mir, Advocate.

V/s

- 1. U.T of J&K through Commissioner Secretary J&K, Department of Home Civil Secretariat Srinagar/Jammu.**
- 2. Managing Director J&K Police Housing Corporation, Srinagar.**
- 3. Executive Engineer, J&K Police Housing Corporation J&K.**
- 4. Assistant Executive Engineer, Police Housing Corporation, Srinagar.**

.....Respondent(s)

Through: Ms. Maha Majeed, Assisting Counsel vice
Mr. Mohsin Qadri, Sr. AAG.

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE.

**ORDER
16.12.2023**

ORAL:

01. The petitioners, fifteen in number, are small time contractors/piece workers. They have executed various works allotted to them by the Jammu and Kashmir Police Housing Corporation [“the Corporation”] to the satisfaction of the latter.

02. The Corporation has also worked out the amount payable to the each petitioner. It is the grievance of the petitioners that despite the petitioner having approached the respondents for disbursement of amount due to them on number of occasions, the requisite amount has not been released in their favour.

03. In the aforesaid circumstances, the petitioners having been denied their legitimate dues have filed the instant petition. The respondents

have filed their objections supported by an affidavit of Managing Director of the Corporation. In the reply affidavit filed, the execution of the works by the petitioners is not disputed. The liabilities which the housing corporation has incurred towards various contractors/ piece workers including the petitioners as assessed by the corporation are also not disputed. As a fact of matter, the respondents have placed on record a copy of assessment in respect of its liability towards various contractors/ piece workers has been placed on record as Annexure-II, appended with the reply affidavit.

04. It is further stand taken by the respondent corporation that the amount due to the petitioners could not be released due to non availability of requisite funds with the corporation to be provided by the department of Health and Medical Education (Indenting Department). It is, however, submitted that the matter has been taken up by the Corporation with various authorities including Health and Medical Education Department and Finance Department for early release of funds against the approved cost of each project/work so that work done liabilities of various piece workers is cleared. Lastly, it is pleaded that the answering respondents would settle the claims of the petitioners as and when requisite amount is received from the Indenting Department i.e., Department of Health and Medical Education.

05. Heard learned counsel for the parties and perused the material on record, the stand taken by the respondent corporation is fair only to the extent that the work executed by piece workers including the petitioners is not disputed. The work done liabilities in respect of works executed up to stage level by the piece workers are not only worked out and assessed by the respondent corporation, but the same have been intimated to the Indenting Department i.e., Department of Health and Medical Education.

06. It is further submitted by the respondent corporation that it has not been in a position to clear the work done liabilities towards piece workers including the petitioners due to failure of the Indenting Department i.e., Department of Health and Medical Education to release the requisite budget/funds. The respondent corporation is very categorical in submitting that all liabilities towards the petitioners and other piece workers shall be settled as and when the requisite funds are received by the corporation from the Indenting Department. It is also in the reply affidavit of the respondent corporation that it has taken up the matter with the Department of Health and Medical Education and Finance Department for providing requisite funds.

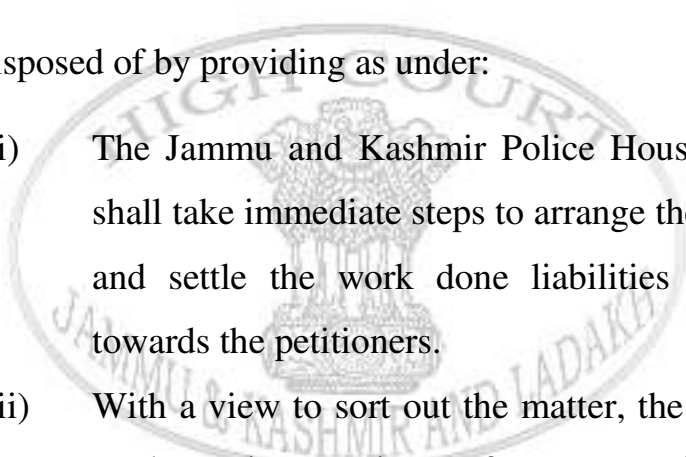
07. In these circumstances, when the works executed by the petitioners are not disputed, nor is there any dispute with regard to the payment due to the petitioners, there could be no reason or justification to deny the admitted payment due to the petitioners. Arranging of funds by the corporation for clearing its liabilities towards piece workers is the duty of the corporation. Whether the corporation would get funds from the Health and Medical Education Department or from the Finance Department is something which is not under the control of the petitioners. Arrangement between the respondent corporation and the Indenting department i.e., the Department of Health and Medical Education is an internal arrangement which cannot impinge upon the rights of the petitioners to seek payment due to them on account of execution of works allotted to them by none other than the corporation.

08. That apart, it also needs to be taken note of that the Jammu and Kashmir Police Housing Corporation, the Department of Health and Medical Education and the Department of Finance are all instrumentalities of the

Union Territory of Jammu and Kashmir and by shifting liability from one to the another, the Union Territory of Jammu and Kashmir cannot escape from its admitted liabilities which it has incurred towards its citizens. The petitioners are small time piece workers and have invested their lifetime savings to execute the works with a hope that they will receive the payments from corporation hassle free and without any unnecessary delay.

09. The works in the case in hand was executed in the year 2018-19, and the petitioners are yet to receive their payments. One can understand if it is the case of the respondents that the petitioners have failed to execute the works or that the works executed by the petitioners are found sub-standard. In the instant case, there is no denying the fact that the works allotted to the petitioners were completed to the satisfaction of the corporation and after successful completion were handed over to the corporation.

10. Having regard to the admitted position obtaining in the case, this petition is disposed of by providing as under:

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- (i) The Jammu and Kashmir Police Housing Corporation shall take immediate steps to arrange the requisite funds and settle the work done liabilities it has incurred towards the petitioners.
 - (ii) With a view to sort out the matter, the Chief Secretary to the Union Territory of Jammu and Kashmir, shall convene a meeting of;
 - (a) Managing Director, of the Jammu and Kashmir Police Corporation;
 - (b) Commissioner/Secretary to the Government Department of Medical and Health Education; and
 - (c) Department of Finance

Within a period of four weeks from today.

- (iii) The Chief Secretary shall ensure that the requisite funds are released in favour of the Jammu and Kashmir Housing Corporation, so that it could clear its admitted liabilities as assessed by it in terms of the Annexure-II appended with the objections within a period of four weeks from the date a meeting is held in this regard is convened and held in terms of supra directions.
- (iv) That the amount as is found payable to the petitioners shall be released within a period of four weeks from the date of receipt of funds by the corporation.

11. It is made clear, that in case the admitted payment due to the petitioners is not paid within the aforesaid period aforementioned, the petitioners shall become entitled to interest @ 9% per annum to be paid from the date payment has become due to the petitioners.

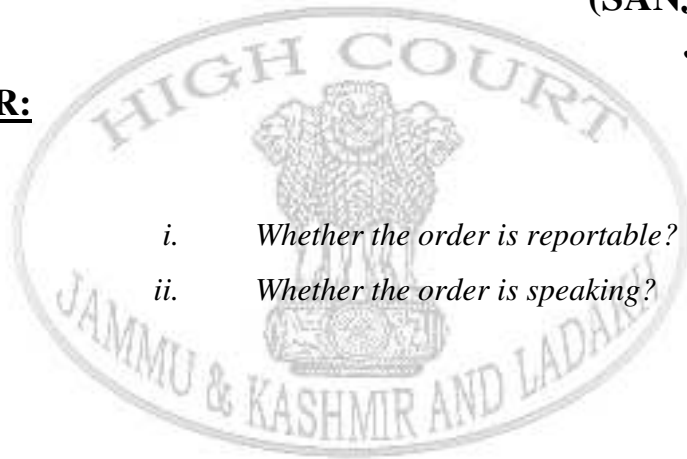
12. Disposed of.

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

16.12.2023

“Mir Arif”



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| i. | Whether the order is reportable? | Yes/No |
| ii. | Whether the order is speaking? | Yes/No |