

Court No. - 40

Case :- WRIT - C No. - 29918 of 2023

Petitioner :- M/S Parikshit Nirmanak Contractor Saklenabad

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Awadhesh Kumar Malviya

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Awadhesh Kumar Malviya, learned counsel for the petitioner and Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State-respondent.

2. The present writ petition has been preferred for a mandamus commanding the respondents to release the pending bill of petitioner amounting Rs. 1,14,39,000/- along with GST (18%) in pursuance of the letter dated 6.2.2023 issued by the respondent no. 3, within stipulated period. Further prayer has been made to pay interest of 12% to the petitioner since the year 2020 till release of amount in question.

3. The matter was taken on 12.9.2023 and this Court has asked learned Standing Counsel to seek instructions. Thereafter, the matter was taken on 20.11.2023 and on the basis of instructions, we have proceeded to pass a detailed order with following observations.

"1. The petitioner has approached to this Court with the grievance that certain construction had been carried out and even though, the said work had been accepted by the respondents but till date the actual payment has not been made to the petitioner. He submits that in the light of the judgment rendered by Hon'ble Supreme Court in M/s Surya Construction vs. State of Uttar Pradesh & Ors. (2019) 16 SCC 794, the claim of the petitioner is to be considered by the competent authority.

2. In response of the order dated 12.09.2023, Sri Sharad Chandra Upadhyay, learned Standing Counsel has placed detailed instructions dated 26.10.2023 indicating therein that the claim set up by the petitioner had been processed. The Chief Engineer, Varanasi Area, PWD, Varanasi has already made communication to the Chief Engineer (Setu), Office of Chief Engineer, U.P. PWD, Lucknow on 30.8.2023 with regard to certain clarification in the matter and the response is awaited.

3. On his request, the matter is passed over. Put up this matter again as fresh on 12.12.2023.

4. Needless to say that the claim set up by the petitioner must be processed by the

competent authority on the next date fixed in the matter. "

4. Today, Sri Ambrish Shukla, learned Additional Chief Standing Counsel apprised that the order dated 20.11.2023 is duly communicated to the respondents for doing the needful, however, instructions are still awaited. He lastly submits that once the claim set up by the petitioner is already processed and the matter is pending consideration for financial approval before the competent authority. In case, some further time is accorded, definitely, the order dated 20.11.2023 would be complied by the respondent.

5. Considering the facts and circumstances, we are not inclined to keep the writ petition pending for consideration and on consent, we dispose of the writ petition asking the second respondent to take a final call in compliance of the order dated 20.11.2023 within four weeks from the date of production of a certified copy of this order, failing which, the petitioner would be at liberty to execute the contempt proceeding against the second respondent.

Order Date :- 12.12.2023

A.K.Srivastava