

Court No. - 40

Case :- WRIT - C No. - 33796 of 2023

Petitioner :- Mahendra Prasad Dubey

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

Counsel for Petitioner :- Brijesh Kumar Pandey, Amit Kumar Shrivastava

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioner and Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State-respondents.
2. Present writ petition has been preferred for a direction to respondent no.4 to decide the representation of the petitioner dated 28.1.2023 in accordance with law within stipulated period.
3. This much is contended that the father of the petitioner was a contractor and some work has been done by him for the department, the details of which has been given in para 2 of the writ petition, but the payment of the same has not been made. Meanwhile, the father of the petitioner has also expired on 6.8.2015 and the petitioner being legal heir/ rightful claimant of him is making repeated efforts to get the payment in question but till date the grievance of the petitioner has not been redressed.
4. In response to the earlier order passed by this Court, learned Addl. Chief Standing Counsel has placed the detailed instructions dated 3.11.2023 sent by the Executive Engineer, Drainage Division, Siddharth Nagar, which is taken on record. On the basis of instructions, he has submitted that relevant papers have not been forwarded by the contractor to the authority concerned and as such payment has not been ensured. It is also contended that if there is any dispute between the contractor and the department, remedy of arbitration may also be invoked but the same has not been availed by the petitioner. The contractor has also not fully completed the contractual obligations. He further raised an objection that there are certain disputed facts, which cannot be adjudicated under Article 226 of the Constitution of India and once the efficacious alternative remedy is available to the petitioner to press the relief before the Arbitrator, there is no reason or occasion to bypass the statutory forum and the writ petition is liable to be dismissed on the ground of statutory alternative remedy.

5. Considering the factum of controversy, we are not inclined to adjudicate the issue on merit. However, we leave it open to the petitioner to press the relief in view of the Condition of Contract before the Arbitrator. In case, any such proceeding is initiated before the Arbitrator within two weeks from today, we hope and trust that the same would be concluded to its logical end expeditiously.

6. With the aforesaid observations, the writ petition stands **disposed of.**

Order Date :- 21.11.2023

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