

Court No. - 46

Case :- WRIT - C No. - 39926 of 2023

Petitioner :- Sarthak Building Engineering

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Samar Bahadur Harijan

Counsel for Respondent :- C.S.C,Anuj Pratap Singh

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Syed Aftab Husain Rizvi,J.

Petitioner claims to have been awarded a contract by the respondent UPSIDC in the year 2016 on the basis of an open competition. It is contended that the petitioner has performed his part of the obligation under the contract and has also submitted bills from time to time. Grievance of the petitioner is that despite repeated representations made, the authorities have not bestowed any consideration to the claim of the petitioner.

Sri Ambrish Shukla has entered appearance on behalf of respondent Corporation and states that the dues of the petitioner are not admitted. It is further stated that since the contract contains arbitration clause, as such, the petitioner be relegated to the remedy of contract.

In reply, counsel for the petitioner places reliance upon a judgment of this Court in Kanika Construction Vs. State of U.P. and others, 2022 SCC OnLine All 30, in order to submit that a writ of mandamus can be issued to the petitioner for release of all admitted dues pursuant to the contract.

We have heard Sri Barun Katiyar holding brief of Sri Samar Bahadur, learned counsel for the petitioner, Sri Ambrish Shukla, learned counsel for the respondent Corporation and perused the materials on record.

From the perusal of record, it appears that there exists an agreement between the parties pursuant to which petitioner claims to have performed his part of the obligation under the contract. There is nothing on record to show that the bills submitted by the petitioner have either been rejected or have been bestowed any consideration.

In such view of the matter, instead of keeping the writ petition pending by inviting counter affidavit, it would be appropriate to dispose of this petition with a direction upon the respondent no. 2 to accord consideration to the petitioner's claim, noticed above, and to ensure release of admitted dues

of the petitioner, if any, within a period of three months, from the date of presentation of a certified copy of this order.

It is made clear that we have not expressed any opinion on the merits of the case and all factual issues are left open to be determined by the competent authority, at the first instance.

The writ petition stands disposed of, accordingly.

Order Date :- 21.11.2023

Ranjeet Sahu