

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 2378/2024 c/w
CCP(S) No. 487/2024

Muzaffar Ahmad Rather

...Petitioner(s)

Through: Mr. Nomaan Shafi, Advocate

Vs

State of JK and Ors.

...Respondent(s)

Through: Mr. Mubashir Malik, Dy.AG.

CORAM:

HON'BLE MR JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER
06.03.2025

01. The case of the petitioner in nutshell is that he being a contractor responded to four separate Tender Notices flouted by the respondents in respect of four different works to be executed at Government Medical College, Anantnag, and Government District Hospital, Anantnag. That he figured as successful bidder and, accordingly, all the four works came to be allotted to him through four different work orders issued by the respondents. That he executed all the four works to the satisfaction of the respondents and without any complaint from any corner, which fact is not disputed. That, however, the respondents in an arbitrary, unreasonable and unfair manner and through unjust use of their official powers failed to discharge their contractual liability towards him by unjustly withholding a part of his payment on account of Earnest Money Deposit and Security Deposit. That he approached a number of times to the respondents with the request

to release the Earnest Money Deposit and Security Deposit in respect of the aforesaid contracts of allotment, but they have been always showing a deaf ear to him. That actually the inaction on the part of the respondents is outcome of their ill-will and annoyance towards the petitioner as he had earlier filed a suit for enforcement of his legal rights against the respondents in connection with some different contract. That the conduct of the respondents has put him in great hardship as they are not releasing the admitted payment to the tune of Rs. 46,96,320/- against the works which have indisputably been executed by him.

02. Through the medium of the instant petition filed under Article 226 of the Constitution of India, the petitioner has sought the issuance of Writ of Mandamus for commanding the respondents to release a payment of Rs. 46,96,320/- [Rupees forty six lacs nine six thousand three hundred and twenty only] on account of the earnest money and security deposit against the works executed by him under Allotment Nos' PS/ED/J/2473-77 dated 23.11.2020, PA/GM/K/2020/76-78 dated 23.06.2022, JKPCC/V/A/1413-17 dated 11.07.2019 and PS/ED/J/3819-21 dated 14.01.2021 along with interest at the prevalent bank rates from the due date till the date of actual payment of the same to him.

03. The petitioner has also filed the contempt petition bearing No. 487/2023 clubbed with the instant petition alleging the breach of the interim Order dated 18th October, 2024 of this Court, whereunder, the respondents had been directed to consider the representation of the petitioner in respect of the subject matter of

the dispute. It is the stand of the petitioner in the contempt petition that he had made a representation on 19th July, 2024 to the respondents with the request to release the admitted earnest money and security deposit amounts in his favour against the already executed works, which was not addressed to by the respondents, thereby compelling him to approach this Court with the instant petition. That this Court was pleased to direct the respondents to consider his representation, however, this did not bother to comply the Court Order dated 19th July, 2024. That after passing of the interim Order dated 19th July, 2024, he made a fresh representation before the respondents on 28th October, 2024, but same also was not addressed to by the respondents, who are, as such deemed to have committed a contempt of the order of this Court.

04. This Court, in the facts and circumstances of the case, is of the opinion that it may meet the ends of justice in case the instant petition is disposed of at this threshold stage by passing of appropriate directions, which otherwise, are meant to be obeyed by the respondents.
05. Accordingly, the instant petition is disposed of with the direction to the respondents to ensure the release of withheld earnest money and security deposit amounts in his favour within a period of four weeks from the date a copy of this Order is served upon them against the subject works mentioned in the petition provided same have been already executed/completed by the petitioner.

06. The clubbed contempt petition is also closed with liberty to the petitioner to file a fresh one if needed in the backdrop of this Order.

07. **Disposed** of.

(MOHD YOUSUF WANI)
JUDGE

SRINAGAR

06.03.2025

Shamim Dar

