

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 16655 of 2016

Date of Decision: 17.8.2016

M/s Shyamji Transport Company, Jind

....Petitioner.

Versus

Food Corporation of India, Panchkula and another

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Robin Dutt, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing respondents No.1 and 2 to release the amount of ₹ 10,94,735/- approximately bill amount, ₹ 6,50,000/- security and ₹ 13,00,000/- bank guarantee along with interest.

2. Respondent No.1 invited the tender as per the Model Tender Form dated 23.3.2013 (Annexure P-1) for the appointment of loading and unloading/handling and transport contractor at Food Corporation Depots/Godowns in Food Corporation of India, District Rohtak under respondent No.2 at Uchana Centre. In response thereto, the petitioner applied for the said tender. The petitioner was allotted the tender vide appointment letter dated 17.7.2013 (Annexure P-2). Vide letter dated 26.7.2013 (Annexure P-3), the petitioner requested respondent No.2 for providing the distance from Storage Points to Rail Heads Uchana.

Respondent No.2 vide letter dated 30.7.2013 (Annexure P-4) informed the petitioner that the distance had already been measured and also provided the measurement of the distance. The petitioner vide letter dated 1.8.2013 (Annexure P-5) informed respondent No.2 that the distance provided was not the correct distance and requested to measure the distance in its presence. Respondent No.2 vide letter dated 7.8.2013 (Annexure P-6) asked the sources of measurement of distance provided to respondent No.2. Respondent No.2 vide order dated 16.8.2013 (Annexure P-7) constituted a committee to measure the distance who measured the distance of various godowns from different routes. On the request of the petitioner, respondent No.2 again constituted a committee vide order dated 10.9.2013 (Annexure P-8) for checking the report dated 24.8.2013 physically and recommended that which route be considered for the loading of specials. The committee vide report dated 3.10.2013 (Annexure P-9) reported that the specials cannot be loaded via short routes given by the previous committee. The routes recommended by the committee on 3.10.2013 were duly approved by the Contract Division, Finance Division, Area Manager of respondent No.1. The respondents awarded the work to the petitioner after verifying its security, bank guarantee and distance which the petitioner did satisfactorily. During the pendency of the contract, the petitioner submitted bill Nos. 1 to 6 (Annexure P-10 Colly) which were duly paid by the respondents. The petitioner submitted the bill dated 11.2.2014 (Annexure P-11) to the respondents who withheld the same without any reason. Thereafter, the petitioner sent a letter dated 20.3.2014 (Annexure P-12) to respondent No.2 for release of payment of bill No.7, but to no effect. Subsequently, bill No.12 was paid but some amount from bill Nos. 8 to 11 and 13 to 15 were

withheld without any reason. Accordingly, the petitioner moved the representations dated 5.9.2014 and dated 6.6.2016 (Annexure P-13 Colly) to respondents No.1 and 2 for disbursement of the amounts, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a letter dated 20.3.2014 (Annexure P-12) and the representations dated 5.9.2014 and 6.6.2016 (Annexure P-13 Colly) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.1 to take a decision on the letter dated 20.3.2014 (Annexure P-12) and the representations dated 5.9.2014 and 6.6.2016 (Annexure P-13 Colly), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of certified copy of the order. It is further directed that in case the petitioner is found entitled to the amount of interest, the same be released to it within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

August 17, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No