

Sr. No.221

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 9689 of 2014

Date of decision:24.08.2016

M/s Shivalik Engineering Traders

.....Petitioner

versus

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Munish Dadwal, Advocate
for the petitioner.

Mr. Suresh Singla, Addl.AG, Punjab.

Rakesh Kumar Jain, J.(Oral)

This petition is filed to challenge the order dated 18.05.2012 (Annexure P-7) passed by the Superintending Engineer, Water Supply & Sanitation Circle, Gurdaspur by which 70% of the payment of the petitioner has been forfeited out of ₹11.69 lacs.

Counsel for the petitioner has submitted that though the work has been completed by the petitioner within the stipulated period and the tubewell is successfully being run by the respondents but they have arbitrarily forfeited 70% of his payment.

State counsel on instructions from Parveen Kumar, X-EN of the department has stated that the respondent party shall make payment to the petitioner provided the petitioner remove the pump set which has fallen in the tubewell. It is submitted on behalf of the respondents that presence of the pump set in the tubewell may become a cause of its collapse in future and in case it happens, the respondents would not be in a position to recover the loss from the petitioner. Therefore, 70% payment of the petitioner has

been withheld.

Counsel for the petitioner however, submits that he is ready and willing to furnish an indemnity bond to the respondents to make good the loss in case the tubewell become non-functional because of the presence of the pump set inside the tube well.

I have heard learned counsel for the parties and after examining the available record, it is ordered that out of ₹8,46,886/- withheld by the respondent, a sum of ₹7 lacs be paid to the petitioner within 15 days from the date of passing of this order. The remaining amount may be retained by the respondents for another one year. The petitioner shall also file an indemnity bond that in case, any loss causes to the tube well because of the presence of the pump set, he would make good the loss. Otherwise, the petitioner is free to take out the said pump set from the tubewell at his own cost. In case, the pump set is taken out by the petitioner at his own cost, the remaining amount retained by the respondents under the order of this Court shall also be paid.

With these observations, the present case is hereby disposed of.

24th August, 2016

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No