

CWP-21768-2015

Date of Decision : 08.05.2017

York Builders Pvt. Ltd.

.....Petitioner

versus

State of Punjab and others

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. G.S. Rana, Advocate
for the petitioner.

Mr. Inder Pal Goyat, Addl.A.G., Punjab.

M.M.S. BEDI, JUDGE (ORAL)

Through instant writ petition, the petitioner company seeks issuance of writ in the nature of *mandamus* directing the respondents to make payment against the maintenance bills demanded vide Annexure P-6 dated 11.09.2015 total amounting to Rs.9,82,304/-.

A perusal of the reply and Annexure P-2 indicates that the Executive Engineer, Construction, Division No. 3, PWD (B&R) Branch, Ludhiana has recommended payment of Rs.3,53,548/- but on account of funds having not been released for maintenance of the work by November, 2012, the said recommended amount was not paid. Disputed question of facts has been raised *qua* the remaining payments as it has been pleaded that there is no entry in the measurement book for carrying out maintenance work during period from April, 2008 to April, 2009.

Without entering into the disputed questions of fact regarding the three bills and taking into consideration the factum of

admission of the claim partially, I deem it appropriate to relegate the petitioner to the alternate remedy of enforcement of his legal right by approaching the Arbitrator as per Clause 25 of the agreement but so far as the admitted amount of Rs.3,53,548/- which has been withheld on account of non-availability of funds, is concerned, the respondent authorities are on weak footing for denying the release of the payment of the admitted liability of the year 2009-10 regarding the maintenance of roads upgraded under PMGSY.

The petition is partly allowed. The direction is issued to respondent No. 2, Executive Engineer, Construction, Division No. 3, PWD (B&R), Ludhiana to release the payment of Rs.3,53,548/- to the petitioner forthwith. In case, the same is not released within a period of two months from the date of receipt of certified copy of this order, the petitioner will be entitled interest thereon at the rate of 9 per cent per annum till its recovery. The petitioner may pursue his case with the authorities so far as the remaining claim is concerned and may take further action in accordance with law.

(M.M.S. BEDI)
JUDGE

08.05.2017

Neha

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No