IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 20385 of 2015
Date of Decision: 6.12.2019

1.M/s SKA Infrastructure Ptv. Ltd.
...Petitioner

Vs.

State of Punjab and others
...Respondents

2. CWP No. 12384 of 2014

M/s SKA Infrastructure Ptv. Ltd.
...Petitioner

Vs.

State of Punjab and others
...Respondents

3. CWP No. 8255 of 2017

M/s SKA Infrastructure Ptv. Ltd.
...Petitioner

Vs.

State of Punjab and others
...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

Ms. Simran Grewal, AAG Punjab.

Mr. Ashok Kumar Bazaz, Advocate
for respondent Nos. 2 & 3.

RAJIV NARAIN RAINA, J. *(Oral)*

1. This order will dispose of the three above-mentioned cases common questions of law and facts are involved in them arising from the same contract, which can conveniently be decided by a common order.

2. The petitioning company was awarded a works contract for construction in November 2009 by the employer. The project was to be completed within 18 months but it failed to meet the deadline. An extension was given to the company for another 17 months still it could execute only 79% of the work. Payment was made to the contractor for the work done to the extent executed. After this, the contractor stopped the work. The Improvement Trust decided to encash the bank guarantee furnished by the petitioner in favour of the respondents for due performance of the contract till completion certificate and in terms of the contract.

3. Against the move of the Trust for liquidating the bank guarantee, the petitioner approached this Court by filing CWP No. 12384 of 2014 for setting aside the order. This court vide an ex parte interim order dated 01.07.2014, stayed the encashment of the bank guarantee by passing the following order:-

> *"Learned counsel for the petitioner, inter alia, contends that the petitioner was allotted the work of construction of 276 LIG flats vide letter dated 17.11.2019 (AnnexureP-1). Over a period of time, after completing 90% of work, about 54 lacs were due towards the petitioner from the respondent-Jalandhar Improvement Trust. A communication dated 07.10.2013 (Annexure P-10) was sent by the petitioner seeking release of the said amount and to complete the remaining work. It was stated that*

> *the respondents were not able to provide necessary facilities of road, water and sewerage at the site. Therefore, the necessary remaining work could not be completed. However, without replying this letter, the respondents have proceeded to encash the bank guarantee, which is valid up to 04.07.2014.*
>
> *Notice of motion for 06.10.2014. Operation of letter dated 24.06.2014 (Annexure P-11) is stayed in the meantime."*

4. The Bank guarantee was valid up to 04.07.2004. The petitioner did not renew the bank guarantee and thereafter under cover of the interim order desisted from doing so.

5. By the next action adverse to the petitioner, the Improvement Trust, Jalandhar resolved to blacklist the petitioner and to get the remaining work completed from another contractor at the risk and cost of the petitioner because the allottees of the flats (which the petitioner was to construct) had filed many cases before the Consumer Courts for redressing their grievances. The Improvement Trust forwarded the resolution to the Government because the Government was the final administrative authority to consider the resolutions passed by the Improvement Trust.

6. At this stage, the petitioner company represented to the Government that the action of the Improvement Trust is harsh because the work was stopped due to non-payment of the work dues. The Government granted an opportunity of hearing to the petitioner as well

as the respondent Trust and finally the Government accorded approval to the resolution dated 03.06.2014. Thereafter, Improvement Trust, Jalandhar passed resolution dated 19.08.2016 thereby deciding that the period of blacklisting would be up to 31.03.2017. This is where the 3rd case stands i.e is CWP No 8255 of 2017.

7. The petitioners claim that the respondent Improvement Trust was required to intimate the accounts to the petitioner in case of termination of contract, though this 3rd writ petition was inordinately delayed in its filing but yet the required information was supplied to the contractor and the details furnished as is averred in the reply filed by the Improvement Trust in the writ petition.

8. The work has been completed through another contractor at the risk and cost of the petitioner. With this turn of events nothing remains to be determined by this Court. If there is any remaining grievance or a grouse which the petitioner harbours, it may apply to the department by submitting a representation, which if presented, will be decided by passing an order assigning cogent reasons and conveying them to the petitioner, including aggrieved party to invoke arbitration to settle the dispute as mandated in Clause 25 of the work contract. Against any award passed in the arbitration proceedings, the unsuccessful party may resort to its legal remedies.

9. For the present, on the facts on which relief is based is weighted against the petitioner, the petitions are dismissed. Equity is not

in his favour and the writ court is a court of equity when the law does not aid the petitioner.

(RAJIV NARAIN RAINA)
JUDGE

6.12.2019
kv

Whether speaking/reasoned : Yes
Whether reportable : Yes/No