

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 544 of 2020**

Vijay Kumar Garg S/o Late Teluram Garg Aged About 51 Years Proprietor
Vijay Bus Services, Handi Chowk, Raigarh, District Raigarh Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through- Secretary, Panchayat And Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, New Raipur, District Raipur Chhattisgarh
2. Director Panchayat, Indrawati Bhawan, Raipur, District Raipur Chhattisgarh
3. Collector Raigarh, District Raigarh Chhattisgarh
4. Zila Panchayat Raigarh Through Its Chief Executive Officer, Zila Panchayat Raigarh, District Raigarh Chhattisgarh
5. Chief Executive Officer Zila Panchayat Raigarh, District Raigarh Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Manoj Paranjpe, Advocate
For State	:	Mr. Somkant Verma, PL

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/02/2020

1. The limited relief that the petitioner has sought for in the present writ petition is for appropriate direction to the respondents to immediately disburse the undisputed balance of amount payable to the petitioner on account of completed contract that he has executed.
2. The petitioner herein had received a contract on 08.08.2016 for deployment of five buses belonging to the petitioner for the educational tour and trip for the representatives of the Panchayats under "Hamar Chhattisgarh Yojana". Pursuant to the completion of contract, the petitioner has raised periodical bills and except for a

payment of Rs. 27,35,559/- all other dues have been released to the petitioner. It is the further contention of the petitioner that more than 60% of the amount has already been released and it is only the balance of aforesaid amount which is left to be paid. It is further the contention of the petitioner that there is no dispute whatsoever so far as the payment due to the petitioner is concerned. The counsel for the petitioner also submits that there is also no dispute so far as completion of work by the petitioner to be satisfactory. He further refers to a document Annexure P-7 which is a correspondence made by the respondent No.2 wherein it has been reflected that but for the budgetary allocation the said amount has not been released. According to the petitioner such correspondence of the respondent No.2 itself shows that said amount is undisputed and for want of budget the amount is being unnecessarily withheld by the State Authorities.

3. The Hon'ble Supreme Court in the matter of **ABL International Ltd. & Anr. V. Export Credit Guarantee Corporation of India Ltd. & Ors., (2004) 3 SCC 553** has held as under :-

“23. It is clear the above observations of this Court, once the State or an instrumentality of the State is a party of the contract, it has an obligation in law to act fairly, justly and reasonably which is the requirement of Article 14 of the Constitution of India. Therefore, if by the impugned repudiation of the claim of the appellants the first respondent as an instrumentality of the State has acted in contravention of the abovesaid requirement of Article 14, then we have no hesitation in holding that a writ court can issue suitable directions to set right the arbitrary actions of the first respondent.”

4. The Hon'ble Supreme Court recently in the case of **Food Corporation of India & Another Vs. SECL Ltd. & Others, (2008) 3 SCC 440** in paragraph 15 to 18 has held as under :-

“15. When supply of sugar was made in terms of a statutory order as also on the directions issued by the Central Government and in the cases there did not exist any factual dispute, we do not see any reason as to why the writ petitions would not be maintainable.

16. It is now no longer res integra that contractual disputes involving public law element are amenable to writ jurisdiction. In these cases, the Central Government not only scrutinized the bills but also verified the claims of the respondents. A direction was issued to make payment. Appellant, which is a 'State' within the meaning of Article 12 of the Constitution of India, withheld payment without any legal justification.

17. The High Court referred to several letters issued by the Central Government to arrive at the conclusion that where sugar had been lifted by a third party without any complaint, protest or demur of shortages, there was no reason as to why payment therefore could not be made.

18. Appellant could not have withheld payment on the basis of the purported shortages in supply of sugar under the contracts made by the respondents many many years back, save and except under the terms of binding contract.”

5. Given the facts and circumstances of the case, respondent No.1 & 2 are directed to process the representation/claim of the petitioner for releasing of the said amount of 27,35,559/- within a period of 90 days from today and if petitioner is found entitled for the said amount and if there is no dispute between the parties, the said amount should also be released within a further period of 60 days thereafter. In the event if respondents fail to pay the said amount during the said period, the amount shall thereafter carry interest at the rate of 12% per annum from the date the amount fell due till the payment is actually made to the petitioner.
6. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge