

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2325 of 2018

Himanshu Kumar Mishra S/o Late Pramod Kumar Mishra Aged About 53
Years R/o Daupara, Mungeli District Mungeli Chhattisgarh., District :
Mungeli, Chhattisgarh

---- Petitioner

Versus

1. Union Of India Through Secretary Of Housing And Urban Affairs , Nirman Bhawan New Delhi., District : New Delhi, Delhi
2. State Of Chhattisgarh, Through The Secretary , Department Of Urban Administration And Development Mahanadi Bhawan New Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Director, Department Of Urban Administration And Development Mahanadi Bhavan, New Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. Collector , Mungeli District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh
5. Sub - Divisional Officer (Revenue) Pathariya District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh
6. Tahsildar , Pathariya, District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh
7. Nagar Panchayat Pathariya Through Chief Municipal Officer Nagar Panchayat Pathariya District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Hemant Kesharwani, Advocate
For Respondent	:	Mr. Shubham Verma, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

03/03/2020

1. The relief sought for by the petitioner in the present writ petition is for
release of outstanding amount payable to the petitioner for

construction of toilets under Clean India Mission Campaign by the respondent No.1.

2. Respondents have now filed their reply on 09.12.2018 and in the reply in paragraph 3, 10,11 & 12 they have made following submissions :-

“3. The contentions advanced by the petitioner are without any sum and substance. It is respectfully submitted that, three different work orders were issued to the petitioner and construction of 178 toilets was allowed to him. The petitioner had constructed those 178 toilets and after due verification payment of the aforesaid construction had already been made to him. Contention of the petitioner that he had constructed 419 more toilets on the oral instruction of the respondents No.4 to 6 merits no consideration. It is respectfully submitted that, though under the mission of Clean India Campaign toilets were constructed in the area, sanction to construct the toilets were given and as per the sanction given by the authorities, payments of 178 toilets have already constructed by the petitioner was made. It is further respectfully submitted that, certain more number of toilets have been constructed by the petitioner as well as one another contractor namely Anish Ahmed. Verification of all those toilets has to be done. It is further submitted that respondent No.7 made a proposal to the Government for sanction of the remaining constructed toilets, as soon as approval is granted, after due verification of the toilets and number of toilets constructed by the petitioner or Anish Ahmed, the payment would be made to them.

10.Contention advanced in paras 8.5 & 806 of the petition merits no consideration. It is respectfully submitted that, under the scheme of Clean India Campaign construction of toilets were made. Pathariya was declared as Open Defection Free (ODF). It is further submitted that, prior sanction was made, in pursuant to which, certain toilets were constructed in the area, however, after construction of those toilets it was found that for the purpose of ODF certain more toilets are to be constructed. In view of aforesaid scenario a direction was issued to both the contractors namely petitioner as well as Anish Ahmed to construct remaining toilets. It is further submitted that the respondent No. 7 had made a proposal for the purpose of sanction of remaining toilets which had already constructed, as soon as such sanction is made, after due verification regarding construction of raised by the petitioner as well as Anish Ahemd, the payment would be made to them.

11.The contentions advanced by the petitioner in these paras merits no consideration. It is respectfully submitted that the claim laid by the petitioner that he had constructed 419 toilets on the oral instruction of the respondents No. 4 to 7 merits no consideration. It is respectfully submitted that, admittedly the petitioner had constructed some more toilets, but the number and figure given by him are incorrect. It is iterated that petitioner apart from the work order issued to him had constructed some more toilets in pursuance to the direction given by respondents No.4 to 7. The respondents No.4 to 7 had already forwarded a proposal for sanction. Immediately after the approval, after due verification of construction, due verification of number of toilets constructed by each of the contractor, the payment would be made.

12. The contention advanced by the petitioner in this para merits no consideration. As averred in the preceding paragraphs, it is respectfully submitted that the amount under the work order has already been paid to the petitioner, as soon as sanction for remaining toilets is received, after due verification of the construction, after due verification of number of toilets constructed by each of the contractor, the payment would be made”.

3. In view of the aforesaid categorical reply of the respondents that after due verification of facts the payment payable to the petitioner shall be made, this Court is of the opinion that no fruitful purpose would be served in keeping the writ petition pending, Accordingly respondents No. 4 to 7 are directed to immediately conduct required verification and ensure that all the payments due to the petitioner after due verification is released at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.
4. It is made clear that in the event if payment is not released, within a period of 90 days from the date the amount is ascertained after due verification the, amount payable shall carry interest at the rate of 6% per annum from the date it fell due till the date actual payments are made.
5. With the aforesaid observations, the writ petition stands allowed.

Sd/-
(P. Sam Koshy)
Judge