

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

CWP No. 1932/2020

Date of decision : 29.05.2020

Medicaid Systems.

....Petitioner

v/s

State of Assam and others.

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Mr. Joginder Pal Sharma, Advocate for the petitioner's.

B.S. Walia, J.,

1. Prayer in the petition under article 226/227 of the Constitution of India is for the issuance of a writ of mandamus for directing respondent No. 2 to process its payment for supply of medical equipment to respondent No. 3 in terms of payment proposal submitted to the DME vide No.MC/96/2010 ISSUE/606 dated 28.03.2012 for sanction/FOC as referred to in Annexure P/5 as also to direct respondent No. 4 to provide information sought for vide Annexure P/7.

2. That the brief facts of the case set up in the petition are that the petitioner is a partnership firm situated at SAS Nagar Mohali in the State of Punjab and being a manufacturer of medical equipment supplied medical equipment to respondent No. 3 vide invoice No. 0616 and 0617 dated 04.02.2012 valued at Rs. 10,86,800/- vide Annexure P/2 (Colly) at Guhati. However payment for the same has not been made despite follow-up / reminders. In the circumstances, the petitioner served a legal notice Annexure

P/3 dated 01.11.2018 but to no avail. Thereafter the petitioner sent a RTI query

Annexure P/4 dated 09.04.2019 to the Public Information Officer, Office of the Principal – cum – Chief Superintendent, Guhati Medical College and Hospital, Guhati in response to which reply Annexure P/5 dated 12th June 2019 was received that no sanction/FOC was received from the government, therefore payment had not been made and that the same would be cleared as soon as sanction and FOC was received from the government.

3. That thereafter the petitioner served a legal notice Annexure P/6 Dated 25.06.2019 on Respondent Nos. 2 and 3 and also filed RTI query Annexure P/7 dated 10.07.2019 to ascertain the reasons for non-processing of payment already recommended vide letter No. MC/96/2010 Issue/606 dated 26.03.2012. However no reply was received either to the legal notice or to the RTI query. Thereupon the petitioner filed an appeal Annexure P/8 before the Appellate Authority, i.e. State Public Information Officer at Guhati and thereafter also filed 2nd appeal but to no avail. In the circumstances the petitioner filed a complaint Annexure P/9 dated 19.11.2019 before the Central Information Commission New Delhi which forwarded the complaint vide letter Annexure P/10 dated 25.11.2019 to the Secretary, Assam Information Commission, Guhati but again to no avail, therefore the instant petition.

4. Ld. Counsel contended that in the circumstances respondent No. 2 was liable to be directed to process payment for supply of medical equipment to respondent No. 3, besides respondent No. 4 was liable to be directed to provide information sought for vide Annexure P/7 in terms of Article 21 of the Constitution of India read with Section 18 of the Right to Information Act 2005.

5. I have considered the submissions of Ld. counsel but am unable to agree with either the 1st prayer on account of the cause of action pertaining to 04.02.2012 while legal notice for release of payment in respect of supplies made i.e. Annexure P/3 is dated 01.11.2018, besides RTI query Annexure P/4 filed is dated 09.04.2019 in response to which reply was received that payment had not been made on account of non receipt of sanction/FOC from the government. Likewise as per the petitioners own showing, matter with regard to the 2nd appeal is pending before the Assam Information Commission, Guhati pursuant to communication Annexure P/10 dated 25.11.2019 from the Central Information Commission for necessary action. In the circumstances not only is the claim for payment apparently time barred and a suit for price of goods supplied not maintainable on account of bar of limitation but writ for issuance of directions to respondent No. 4 situated in Guhati, Assam is also not maintainable on account of lack of territorial jurisdiction besides also on account of availability of alternative remedy before the State Information Commission, Guhati, Assam/Central Information Commission New Delhi. Accordingly the writ petition is dismissed.

(B.S. Walia)
Judge

29.05.2020
DP&S

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