

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

**CWP-12688-2020  
Date of decision: 25.08.2020**

**M/s Oberoi Construction Corporation**

**...Petitioner**

**Versus**

**State of Punjab and others**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. R. K. Girdhar, Advocate  
for the petitioner.

**ARVIND SINGH SANGWAN, J. (Oral)**

Prayer in this writ petition is for issuance of a writ in the nature of Mandamus directing the respondents to release the amount of Rs. 5,47,475/- to the petitioner, along with interest @ 8% per annum, as per the decision dated 04.01.2020 of the Adjudicator.

Learned counsel for the petitioner submits that admittedly, the aforesaid amount is due to petitioner and despite issuance of notice to respondents, the amount is not being released.

Learned counsel for the petitioner has relied upon judgment dated 21.12.2015 passed in *CWP-14356-2012*, titled as *M/s Ludhiana Builders vs. State of Punjab and others*, wherein a similar point was in dispute. The operative part of the reads as under:

“I have heard learned counsel for the parties and perused the available record. There is no dispute that the petitioner was entitled to the amount of the fourth-cum-final bill which was prepared way back on 25.03.2011 and the respondent-corporation could not make the payment because they had lost the original case file of

the work executed by the petitioner and did not pay it despite repeated reminders and representations. Since the respondent-corporation has admitted the lapse on its part in the reply, therefore, the action of the respondent-corporation was totally arbitrary and unreasonable for which the writ petition is always maintainable as it offends Article 14 of the Constitution of India. Moreover, the judgments relied upon by the petitioner in **Food Corporation of India's case (supra)** has not been noticed by the Coordinate Bench of this Court in **M/s Dharam Pal Contractors Hot Mix Plant Danewala, Sardoolgarh's case (supra)** and has basically relied upon a decision of the Guwahati High Court in the case of **Abdul Kasem Ali Ahmed v. State of Assam and others, 2007(1) GLT 784**, decided on 07.02.2007, whereas the decision relied upon by the petitioner in **Food Corporation of India's case (supra)** is of the year 2008, having been decided on 11.01.2008.

Further, in **Food Corporation of India's case (supra)**, the Supreme Court has held that the High Court, in an appropriate case, may grant such relief to which the writ petitioner would be entitled to in law as well as in equity.

Since the parties are bound by the agreement and in the agreement, on the basis of which the work has been executed by the petitioner, there is no stipulation of non-payment of interest on the delayed payment, therefore, the petitioner is entitled to interest on the delayed payment.

Consequently, the present writ petition is hereby allowed and the direction is issued to the respondent-corporation to pay to the petitioner interest @ 7% per annum from the date the payment of the fourth-cum-final bill become due till the date it has been actually paid and

since the respondent-corporation has unnecessarily contested this petition on the misconceived notions and keeping in view the harassment faced by the petitioner at the hands of the respondent-corporation, the writ petitioner is also held entitled to the costs of Rs. 1,00,000/- which shall be paid to it by the respondent-corporation within a period of 3 months from today.”

Learned counsel for the petitioner further submits that the petitioner, at this stage, would feel satisfied if a direction is issued to respondent Nos. 3 to 5 to decide/dispose of the representations (Annexures P-3 and P-4), submitted by the petitioner.

Notice of motion.

Mr. Abhaypal Singh Gill, DAG, Punjab, who is also appearing through video conferencing, accepts notice on behalf of the respondents-State and has no objection to the limited prayer made by learned counsel for the petitioner.

Accordingly, the present writ petition is disposed of with a direction to respondent Nos. 3 to 5 to decide the aforesaid representations (Annexures P-3 and P-4) within a period of two months from today, after affording an opportunity of hearing to the petitioner and in accordance with decision of the adjudicator.

25.08.2020

*Waseem Ansari*

(ARVIND SINGH SANGWAN)  
JUDGE

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*