

13
18.01.2021.
d.p.

**W.P.A 10112 of 2020
(Via Video Conference)**

**Modern Construction
-versus
Howrah Municipal Corporation & Ors.**

**Mr. Saptansu Basu,
Ms. M. Mazumder.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Ankit Sureka.
...For the HMC.**

**Ms. Sutapa Sanyal,
Ms. Susmita Saha.
...For the Respondent
No.7.**

Affidavit-of-service filed in Court today is taken on record.

The grievance of the petitioner is that the payment, which was due and payable to the Company on account of the work that was performed by it, has not been cleared by the Howrah Municipal Corporation on the ground of non-receipt of government grant and sanction.

The learned advocate appearing for the petitioner submits that work was performed by the petitioner pursuant to the contract awarded and bills were raised accordingly. The same will be evident from the reply given by the Howrah Municipal Corporation to the petitioner under the Right to Information Act, 2005 wherein it has been mentioned that the final bills were raised in 2015-2016.

The learned advocate for the petitioner relies upon a judgment dated 8th October, 2017 in the matter of Ashim Kumar Ray –vs- The Chief Engineer, Eastern Zone, All India Radio & Ors. reported in 2007 SCC Online Cal 630 in support of his stand that payment cannot be withheld on account of non-receipt of fund.

The learned advocate appearing for the Howrah Municipal Corporation is not ready with instruction in the matter.

As it appears that the petitioner had performed the work and raised bills in respect of the same as far back as in the years 2015 and 2016, it was incumbent upon the Howrah Municipal Corporation to take steps for clearing the same in accordance with law.

The Howrah Municipal Corporation ought not to have sat tight over the bills for such a considerable period of time. The reason provided by the Howrah Municipal Corporation for not releasing the payment on account of non-receipt of government grant and sanction is not a valid reason to sit tight over the matter.

The petitioner has performed its part of the work and it is the duty of the Howrah Municipal Corporation to pay the bills in respect of the work done by the petitioner.

In view of the above, the instant writ petition is disposed of by directing the Howrah Municipal Corporation to take steps for clearing the dues of the petitioner strictly in accordance with law, within a

period of four months from the date of communication of a copy of this order.

In the event the Howrah Municipal Corporation disputes the bills which have been raised by the petitioner, the same shall also be intimated to the petitioner immediately.

W.P.A. 10112 of 2020 is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)