

CWP-15576-2021

Date of decision : August 20, 2021

Bijender Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Yashdeep Nain, Advocate for the petitioner.

Mr. Narinder Singh Behgal, AAG, Haryana.

Mr. Ashish Yadav, Advocate for respondents No. 4 and 5.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Prayer in this writ petition is for quashing of order dated 24.11.2020 passed by the Secretary, Municipal Committee, Pehowa in compliance of order dated 07.10.2020 passed in CWP-32039-2018. Petitioner, it is stated, is an eligible enlisted contractor, who applied for online tenders for provision and laying of interlocking paver blocks in various streets as is detailed in the writ petition. It is stated that despite completion of entire work to the satisfaction of the respondent authorities, due payment was not released. Petitioner filed CWP-32039-2018, which was disposed of on 07.10.2020 with a direction to the Secretary, Municipal Committee, Pehowa to consider and take appropriate action upon legal notice dated 17.08.2018, which had been served by the petitioner within one month of receipt of certified copy of the order. It is further directed that if respondent No. 4 finds that dues as claimed by the petitioner concern are lawful, payment shall be made within a period of one month thereafter. Any belated payment beyond the stipulated period shall carry interest @ 6.5% per annum from the date of

completion of the work till payment and if respondent No. 4 finds that the petitioner is not entitled to the dues, as claimed by it, a speaking order shall be passed and communicated to the petitioner concern.

Pursuant thereto, order passed 24.11.2020 was passed, wherein it is observed that there is no such item of vibrated interlocking paver block in the H.S.R. at the rate of Rs.690/- per square meter and that payment of Rs.48,71,894/- has been released to the petitioner as per the work executed at the site and not as per the work order. It is observed that the petitioner had executed the construction work according to the technical sanction and payment has been made accordingly. Therefore, there is no question of any loss. Earnest money of Rs.1,62,000/- was directed to be refunded but without any interest.

Learned counsel for the petitioner argues that rate of Rs.690/- per square metre has been awarded to some other contractors and correction in the rate has been made manually and incorrectly, therefore, petitioner is entitled to the said rate. It is alleged that some irregularities and illegalities are being perpetuated by the authorities for considerations best known to them. Moreover, non application of mind is reflected in the impugned order, which is liable to be set aside and the entire amount as demanded by the petitioner should be released.

Though notice has not been issued, advance copy of this writ petition stands served upon the respondents.

Mr. Narinder Singh Behgal, AAG, Haryana appears on behalf of respondents No. 1 to 3. Mr. Ashish Yadav, Advocate appears on behalf of respondents No. 4 and 5.

I have heard learned counsel for the parties.

In my considered opinion, disputed questions of fact arise in this writ petition which cannot be entertained in exercise of writ jurisdiction. It is not in

dispute that it is specifically provided in the work order that in case any dispute in respect to the contract arises, decision of the Deputy Commissioner, Kurukshetra shall be final.

In the given facts and circumstances, it is considered just and expedient to relegate the petitioner before the Deputy Commissioner. In case, petitioner submits comprehensive representation/petition detailing his grievances before the Deputy Commissioner within fifteen (15) days, same shall be considered by the Deputy Commissioner within six weeks of submission of the said representation after affording an opportunity of hearing to the parties. Needless to say, petitioner is at liberty to raise all the pleas as are available to him before the Deputy Commissioner, who shall consider the same in accordance with law and decide the same by passing a speaking order. Petitioner is doubtlessly entitled to 6.5% interest on the delayed payment of Rs.1,62,000/-, as has been directed in order dated 24.11.2020 in CWP-32039-2018. The same be released within four weeks from today.

Present writ petition is, accordingly, disposed of.

August 20, 2021
rts

(Lisa Gill)
Judge

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