

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

79 WRIT PETITION NO.8362 OF 2022

**M/S VIJAY CONSTRUCTION COMPANY THROUGH ITS PARTNER
THAKUR UDAYSINGH JAGMOHAN SINGH DIKHAT**

VERSUS

**THE STATE OF MAHARASHTRA THROUGH SECRETARY AND
OTHERS**

...

Advocate for Petitioner: Mr. P. R. Katneshwarkar

AGP for Respondent/State: Mr. A. R. Kale

...

CORAM: RAVINDRA V. GHUGE

AND

ARUN R. PEDNEKER, JJ.

DATE: 18th AUGUST, 2022

PER COURT:

1. The Petitioner has put-forth prayer clauses 'A' and 'B', as under:-

"A] This Hon'ble Court may be pleased to direct the respondents No.1 to 3 to release bill of Rs. __ 8,21,47,357/- (Rupees Eight Crore Twenty One Lakhs Forty Seven Thousand Three Hundred and Fifty Seven) in favour of the present petitioner **within period of four weeks.**

B] This Hon'ble Court may be pleased to direct the respondents No.1 to 3 to pay interest @18% on the total amount of Rs. 8,21,47,357/- (Rupees Eight Crore Twenty One Lakhs Forty Seven Thousand Three Hundred and Fifty Seven) which is yet to be recovered by the Petitioner from the date of order of this Hon'ble Court till the actual realization of the amount."

2. We have briefly heard the learned Advocate for the Petitioner and the learned AGP on behalf of the Respondents / Authorities. We have perused the earlier order passed by this Court on 08.03.2016 in Writ Petition No.1 of 2016, filed by the present Petitioner. It would be apposite to reproduce Paragraph Nos.1 to 5 set out in the said order hereunder:-

"1. Mr. Katneshwarkar, learned counsel for the Petitioner states that the amount as detailed in the Annexure attached with the Petition, is payable by the Respondents and the same is not disputed.

2. Mr. Girase, learned Government Pleader submits that whatever legitimate amount is due and payable to the Petitioner, the Respondents would pay the same after the funds are received. The demand is already made to the State Government thereby seeking funds. On receipt of funds, payments will be made.

3. It appears that the Respondents admit payment of some amount to the Petitioner as would be clear from the letter Exhibit R-3. The only reason stated is that the funds are not available and whenever the funds would be made available by the Government, the same would be utilized for payment of bills to the Petitioner.

4. The Respondents shall make payment to the Petitioner of the legitimate amount due and payable to the Petitioner expeditiously, preferably within NINE MONTHS.

5. Writ Petition stands disposed of. No costs."

3. The learned Counsel for the Petitioner informs us that the Public Works Department, Ambejogai issued a chart dated 19.07.2022, clearly

indicating the outstanding amounts that the PWD has to pay to the Petitioner. This chart is at Page Nos.133 and 134. There are 12 items included. Out of these 12, Serial Nos.1, 2 and 3 pertain to the earlier bills with reference to which this Court had passed the order on 08.03.2016, reproduced above. Serial No.11 is now to be ignored since the learned Counsel for the Petitioner submits that the said amount is paid in its entirety.

4. The learned AGP submits that though the chart at Page Nos.133 and 134 indicates that the PWD has itself given details as regards the amounts which are to be paid by the PWD to the Petitioner, the Petitioner might as well avail of the remedy of approaching the Civil Court by preferring a Summary Suit. In case of a dispute, the Summary Suit will then have to be tried as a Regular Suit.

5. In view of the above, this Petition is disposed off. Considering the order dated

08.03.2016 and the chart dated 19.07.2022, we would expect the PWD, Ambejogai to make the payment of the amounts as are admitted by them in the said chart, expeditiously and preferably within a period of nine (09) months. In the event of any dispute with regard to the amounts mentioned in the said chart, we would leave it open to the Petitioner to avail of a remedy by approaching the Civil Court.

6. Needless to state, considering the statement made by the PWD which is recorded in the earlier order dated 08.03.2016, the payment of the amounts at Serial Nos.1, 2 and 3, which were categorically admitted before this Court earlier, shall be paid to the Petitioner within three (03) weeks and no dispute can be raised with regard to the same considering the earlier order.

[ARUN R. PEDNEKER, J.]

[RAVINDRA V. GHUGE, J.]

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