

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision:- 12.01.2022

1. Civil Writ Petition No. 405 of 2022
M/s Garg & CompanyPetitioner

Versus

State of Haryana and others ...Respondents

2. Civil Writ Petition No. 413 of 2022
M/s Garg & CompanyPetitioner

Versus

State of Haryana and others ...Respondents

3. Civil Writ Petition No. 430 of 2022
M/s Garg & CompanyPetitioner

Versus

State of Haryana and others ...Respondents

4. Civil Writ Petition No. 450 of 2022
M/s Garg & CompanyPetitioner

Versus

State of Haryana and others ...Respondents

5. Civil Writ Petition No. 498 of 2022
M/s Garg & CompanyPetitioner

Versus

State of Haryana and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.**

Present:- Mr. HS Brar, Senior Advocate with
Mr. RS Kalra, Advocate, for the petitioner.

Mr. Deepak Balyan, Additional Advocate General, Haryana,
for the respondents.

(The aforesaid presence is being recorded through video conferencing since the
proceedings are being conducted in virtual Court).

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RAVI SHANKER JHA, CHIEF JUSTICE (oral)

Through these petitions, the petitioner company has sought a writ of certiorari to quash the impugned orders dated 11.08.2021, 29.10.2021, 03.11.2021, 13.12.2021, 31.12.2021, 01.01.2022 and 04.01.2022 passed by Executive Engineer, Kurukshetra. It is observed that previously, on the same issues, the petitioners had filed writ petitions No. 24066-2021, 24068-2021, 24069-2021, 24070-2021 and 24075-2021 before this Court, which were accordingly disposed of on 30.11.2021 by recording the statements of learned senior counsel for the petitioner as well as the learned Additional Advocate General, Haryana, in the following terms:-

“The issue raised in all these petitions relates to imposition of liquidated damages in terms of clause 44 of the Contract/Standard Bidding Document for Pradhan Mantri Gram Sadak Yojana (PMGSY-III Batch-II). It is, however, observed that there is a Dispute Redressal System as contained and provided under Clause 24 of the aforesaid contract.

Learned Additional Advocate General appearing for the respondent-State of Haryana submits that in case the petitioners invoke clause 24 of the contract, the authority concerned would take up the matter and decide the dispute within a period of four weeks from the date the dispute is raised by the petitioners.

Learned senior counsel further submits that the petitioners may be permitted to raise all the issues including the issue of jurisdiction before the said authority within a period of one week. He is accordingly permitted to do so.

It is further made clear that the petitioners would also be at liberty to move the

Dispute Redressal Authority by filing an application seeking stay of further recovery during the resolution process or till the matter is decided by the said authority.

To which, learned Additional Advocate General, Haryana submits that in case any such application is filed, the authority shall also consider the same.

With these observations, all the petitions stand disposed of.

As the previous petitions were as regards the same issues and grievances, we do not find any reason to entertain the present petitions for virtually the same relief.

It is, however, observed that pursuant to the order (ibid) passed by this Court on 30.11.2021, the petitioner company raised a dispute under Clause 24 of the contract, which, as on date, is pending before the respondent-authorities. It is not disputed either that the petitioners have also filed applications seeking stay before the said authority in terms of the statement made by learned Additional Advocate General, Haryana before this Court. However, by orders dated 13.12.2021, 31.12.2021, 01.01.2022 and 04.01.2022, the Executive Engineer, Kurukshetra instead of deciding the dispute observed that the earlier petitions filed by the petitioners were dismissed by this Court and therefore, ordered recovery by issuing final notices.

Learned Additional Advocate General appearing for the respondent-State of Haryana on instructions from Mr. Rajeev Yadav, Chief Engineer, PWD (B&R) Ambala Division, Ambala fairly submits that the impugned orders passed by the Executive Engineer, Provincial

Division No.1, PWD (B&R), Kurukshetra are in derogation of the statement made by the learned Additional Advocate General, Haryana in Civil Writ Petition No. 24066 of 2021 and other connected matters, as also the spirit of the order dated 30.11.2021. He further submits on instructions that the orders dated 13.12.2021, 31.12.2021, 01.01.2022 and 04.01.2022, passed by Executive Engineer, PWD (B&R), Kurukshetra, be treated as nonest and those would not be implemented or enforced by the respondent-authorities. It is urged that the dispute is now pending before the Chief Engineer, PWD (B&R), Ambala Division, Ambala in respect of the four matters which are listed for hearing for today i.e. 12.01.2022. He submits that Chief Engineer, PWD (B&R), Ambala Division, Ambala would give full opportunity of hearing to the petitioner company in terms of clause 24 of the contract including adequate opportunity to place before the said authority all the materials in support of their submissions and thereafter decide the dispute strictly in accordance with law. He further submits on instructions that 5th petition i.e. Civil Writ Petition No. 498 of 2022, where dispute relates to an amount which is less than Rs.10 crores, would also be taken up alongwith the remaining four petitions and be decided by the Chief Engineer, PWD (B&R), Ambala Division, Ambala himself as the issues and parties to the dispute are the same. Accordingly, he submits that let these petitions be disposed of in terms of his statement.

Learned senior counsel appearing for the petitioner expresses his agreement with the course suggested by the learned Additional Advocate General, Haryana.

In view of the aforesaid facts and circumstances and in view of the statement made by learned Additional Advocate General, Haryana, the orders dated 13.12.2021, 31.12.2021, 01.01.2022 and 04.01.2022 passed by Executive Engineer, Kurukshetra are directed to be treated as nonest. The same shall not be implemented or enforced. Further, as stated before this Court, the Chief Engineer, PWD (B&R), Ambala Division, Ambala shall take up all the five matters, hear the petitioner company and give them full opportunity of hearing and thereafter decide the dispute strictly in accordance with law including the applications for stay that are pending before him.

With these observations, all the petitions stand disposed of.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

12.01.2022

ravinder

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