

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

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**CWP-14726-2019 (O&M).
Date of Decision: September 02, 2022.**

The Baba Farid Co-operative Labour and Construction Society

... Petitioner

Versus

The State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: None for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ of mandamus directing the respondents to make the payment of Rs.1,45,000/- approximately qua the work executed by the petitioner-society.

2. A perusal of the petition shows that petitioner which is A-Class Labour and Construction Society had executed works assigned to it from time to time without any complaint. The details of the work

undertaken by the petitioner Labour Construction Society are extracted as under:-

Sr.No.	Detail of Works	Amount pending for payment including the security amount (Approx.)
1	Laying interlock paver blocks 60 MM thick in different roads.	Rs.1,45,000/-
	Estimated Value:- Rs. 13.32 lacs Work Order No.149/5-4-16.	
	Total	Rs.1,45,000/-

3. The instant petition has been filed since payment in favour of the petitioner Society was not released even though the work had been executed by the petitioner Society way-back in the year 2016. Several representations were sent to the respondent authorities and subsequently, a legal notice was also served on 29.03.2019. Upon failure on the part of the authorities to respond to the same, the present writ petition had been filed.

4. Pursuant to the notice of motion issued, a short reply by way of affidavit of Mr. Karandeep Singh, the Deputy Secretary, Department of Local Government, Punjab, Chandigarh, had been filed. The relevant extract thereof reads thus:-

“3. That as per the report of the Executive officer of Nagar Panchayat, Bhagta Bhaika, vide letter no.577 dated 22/06/2021 (Annexure-R/1/T), balance amount of Rs.44,116/- has been paid to Baba Farid Co-operative Labour and Construction Society through Cheque bearing no.049251 dated 11.03.2020 of Oriental Bank of Commerce. Apart from these bills, security amount deducted from bills i.e. Rs. 88,773/- has

been pending as the work was got done under the Urban Mission scheme. Therefore security amount will be released after finalisation of report of Chief Engineer of Department of Local Bodies, so kindly consider their reply, as respondent no.4 is the main contesting authority in this matter.

4. That as per the provisions of the Punjab Municipal Act 1911, Executive Officer is the competent Authority to control and regulate the building activity within the Municipal Council area. It is further submitted that the Municipal Council is a Body Corporate under section 4 of Punjab Municipal Act 1911. That the petitioner has not challenged any order's direction or any instruction issued by the answering respondent and moreover the main contesting party is respondent no.4 against which prayer has been made."

5. A perusal of the aforesaid shows that no dispute has been raised by the Department about the non- execution of the work in question or any defect in the workmanship by the petitioner Society. There is also no dispute regarding the entitlement of the petitioner Society to the aforesaid amount. As a matter of fact, the only explanation given forth for the non-release of the amount is that finalization of report is to be received from the Chief Engineer of Department of Local Bodies. No explanation has also been furnished as to what has restrained the Chief Engineer from submitting the said finalization of report even after the expiry of nearly six years from the completion of the work.

6. The instant writ petition is accordingly allowed with a direction to the respondent-Department to call for the report from the Chief Engineer of the Department of Local Bodies within a period of 3 months

and to release the security amount retained and deducted from the bill of the petitioner Society without prejudice to the claim, if any, of the Department against the petitioner Society in a further period of two months thereafter.

Petition is disposed of accordingly.

September 02, 2022
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No