

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**CWP-15388-2021 (O&M).
Date of decision: 16.09.2022.**

M/s Rangrez

...Petitioner

Versus

The State of Haryana and others

...Respondents

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

Present: Mr. Govind Chauhan, Advocate for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Ashish Yadav, Advocate, for respondent No.3.

VINOD S. BHARDWAJ. J.

The present writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of mandamus directing the respondents to release the payment of the petitioner due towards the respondent – Department as per work order dated 27.02.2018 (Annexure P-2).

Learned counsel appearing on behalf of the petitioner contends that the office of respondent No.3 i.e. the Director, Haryana Institute of Rural Development, Nilokheri, District Karnal, had floated a tender for back packs (pithoo bags), pen and spiral note pads etc. in the

year 2017. Upon submission of the bid, the rates quoted by the petitioner were found to be lowest, and accordingly, an offer letter was issued on 21.12.2017. He contends that the petitioner has duly complied with the said order and the respondent - Department had received the consignment in terms of the contract. It is submitted that the due amount as against the execution of the work order has not been released.

Written statement on behalf of respondent No.3 has been filed today in the Court. A copy has been handed over to the learned counsel for the petitioner.

A reference is made to the following extract of the written statement filed today in the Court:-

“4. That it is humbly submitted that firstly the petitioner was allotted work order bearing No HIRD/Tender/2017/1971 dated 21.12.2017 for the supply of 20,000 Pithoo Bags and 20,000 Spiral Binding Note Book. Although the petitioner had delivered the above items after a delay of 32 days of the target date, still answering respondent had already released the payment towards this work order on 15.02.2018. Thereafter petitioner was again allotted a work order bearing No HIRD/Tender/2018/3352 dated 27.02.2018 for the supply of 22000 Pithoo Bags double décor with printing and 22000 Spiral Binding Note Book. It is very crucial to mention that the above items were to be delivered by the petitioners within 20 days of the work order i.e. on or before 19.03.2018. However, petitioner was miserably failed to deliver the items within the target date. It is submitted that petitioner had delivered the complete items only on 07.06.2018 i.e. after a huge delay of 80 days. Accordingly as per the terms and condition of the contract, penalty at the rate of 1% each day of the supplied

item was imposed upon the petitioner which has come out to be 19,80,116/- and the total amount which was payable to the petitioner as per this work order was 20,59,988/-. Accordingly, after deducting the penalty amount, the remaining payable amount to the petitioner comes out to be Rs. 79,783/- which answering respondent is ready and willing to pay.

5. That petitioner is claiming that he had completed the above mentioned work order in a satisfactory manner, however, the respondents' authorities as per him are not releasing the amount. Above submissions alleged by the petitioners is totally false and misconceived. Petitioner had grossly violated the terms and conditions of the contract/work order and had not only delivered low quality items but also delivered the items with considerable delay. Accordingly the Instant Writ Petition is liable to be dismissed."

Learned counsel for the petitioner contends that the aforesaid averments narrated in the written statement are contrary to the terms and conditions of the tender and that they have arbitrarily deducted the huge amount despite receipt of the entire consignment. He submits that the same amounts to unjust enrichment on the part of respondent - Department and that the respondent – Department is bound to compensate the petitioner for the consignment so released. He, however, contends that the legal notice sent by the petitioner dated 01.02.2021, raising all the aforesaid issues, is already pending with the respondent Authorities and that he would be satisfied in case the respondent-Department is directed to look into the various issues raised by the

petitioner in its legal notice dated 01.02.2021 (Annexure P-4) and to pass a reasoned and speaking order thereupon after affording an opportunity of hearing.

The aforesaid prayer of the petitioner is not objected by the learned counsel representing respondent No.3.

Accordingly, with the consent of the parties, the present writ petition is disposed of directing the respondent No.3 – Director, Haryana Institute of Rural Development, Nilokheri, District Karnal, to decide upon the legal notice dated 01.02.2021 (Annexure P-4) within a period of three months after the receipt of certified copy of this order after affording an opportunity of hearing to the respective parties.

Disposed of accordingly in above terms.

September 16, 2022
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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