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

**CWP No.25126 of 2018
Date of Decision: 07.04.2022**

**M/S SHISH RAM & CO Petitioner
Vs
STATE OF HARYANA & ORSRespondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Ram Pal Verma, Advocate
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G., Haryana
for respondents No.1 to 3.

Mr. Deepak Balyan, Advocate
for respondent No.4.

RAJ MOHAN SINGH, J.(Oral)

Petitioner has preferred this writ petition for the issuance of a writ in the nature of mandamus directing respondents No.1 to 4 to release the payment of works done by the petitioner in the Municipal Committee, Samalkha.

Learned counsel for the petitioner submits that office of Municipal Committee, Samalkha invited tenders for the work of streets etc. Petitioner being the lowest tenderer allotted the work assignment. Petitioner has completed 17 development works. Execution of 17 development works has been passed by the President, Municipal Committee, Samalkha in its proposal

No.8(VI) dated 23.04.2015. The applications and extract of aforesaid development works were received by the Municipal Committee and were entered in tender register of municipal committee w.e.f. 10.10.2012 to 20.08.2013 and 30.10.2013 to 27.08.2014. The rates fixed for these development works were also accepted after negotiations.

Learned counsel further submits that the spot inquiry was also done in respect of all the development works completed by the petitioner including demarcation done in respect of completion of work. All the works were done in time and were found to be satisfactory. Reference in respect of payment of bills for the completed work was signed by the Secretary, Municipal Committee, Samalkha, Engineer, Municipal Committee, Samalkha and Sub-Divisional Officer (SDO), Panchayati Raj, Samalkha. The report was submitted for the payment of bills. Simply because work order was not issued in respect of aforesaid development works, the payments cannot be withheld.

Learned counsel further submits that issuance of tender is also not in dispute. Even in the aforesaid report/reference dated 23.10.2017, details of works with reference to costs have been mentioned. Even in the reports prepared by Secretary, Municipal Committee, Samalkha, Engineer, Municipal Committee, Samalkha and Sub-Divisional Officer (SDO),

Panchayati Raj, Samalkha which have been submitted to Sub-Divisional Officer (Civil) Samalkha on 02.01.2018, the factum of works executed by the petitioner-Company has been mentioned at Sr. Nos.5, 7, 8, 10, 11, 12, 16 and 17. The estimated costs of construction work has also been shown in the last column which is running in lakhs of rupees. The spot inspection conducted by the aforesaid Committee found the work to be satisfactorily executed and the report was submitted for payment of bills.

Learned counsel further submits that before filing the present writ petition, the petitioner has also issued a legal notice raising its demand for payment of dues. In the letter dated 23.11.2016 prepared in the context of legal notice of the petitioner, 17 work assignments are found to have been done/completed by the petitioner-Company, but the payments have been withheld on the ground that work orders of the above works were not issued. The execution of work assignment is not denied, rather a demarcation has also been conducted by the Special Committee constituted by the Department itself in order to ascertain the completion of work as per defined parameters. Completion of work is not an act of God. It was executed only by the petitioner.

The stand taken by respondent No.4 is only with regard to non-issuance of work order. Admittedly, in pursuance of tender notice, development works have already been completed

to the satisfaction of respondent No.4. The Agency, who has undertaken the development works and completed the same as per parameters is legally entitled for the dues. Non-issuance of work order is not attributed to the petitioner-Company. Petitioner being the lowest tenderer was asked to perform the obligation and has successfully completed the same.

In view of aforesaid factual position, the petitioner is entitled to be paid its dues as per report dated 23.10.2017 submitted by the Committee of three persons namely Secretary, Municipal Committee, Samalkha, Engineer, Municipal Committee, Samalkha and Sub-Divisional Officer (SDO), Panchayati Raj, Samalkha which was submitted to Sub-Divisional Officer (Civil) Samalkha.

In view of above, this petition is allowed. Let the needful be done within a period of one month from the date of receipt of certified copy of this order. In case, the payment is not made within the stipulated period, then the petitioner would be entitled for interest @ 6% per annum for the delayed payment from the date it became due till final realization of the amount.

April 07, 2022
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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No