

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

216

CWP-26703-2019 (O&M)
Date of Decision: 10.10.2022

M/S AGLOW BUILDERS

... Petitioner

Versus

THE STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Chirag Girdhar, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

None for respondent No.3.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Articles 226/227 of the Constitution of the India, 1950 for issuance of a writ in the nature of Mandamus directing the respondents to make the payment of Rs.14,72,573/- including security and earnest money qua the works executed by the petitioner.

Learned counsel for the petitioner contends that the petitioner was allotted certain works for provision of street lights etc. in various wards of Ludhiana on 21.10.2017. The said works were completed by December, 2017. Despite due and satisfactory execution of the allotted work, the payment in question had not been released. The details of the works executed and respective bills raised by the petitioner are mentioned in paragraph No.2 of the petition.

Learned counsel for the petitioner submits that even though there was no dispute with regard to the satisfactory execution of the works

in question, however, the payment in question has not been released. Consequently, a representation dated 16.01.2019 was duly served upon the respondent No.3 by the petitioner and the same was received vide Dairy No.4444 dated 16.01.2019.

Upon notice, written statement on behalf of respondents No.1 and 2 had been filed wherein a stand had been taken that the works in question had been allotted by the respondent No.3- Municipal Corporation, Ludhiana and that it is directly a dispute between the petitioner and respondent No.3, wherein the State has no role to play.

A separate reply on behalf of respondent No.3 has also been filed. The relevant extract of the preliminary submissions made in the said reply is reproduced hereinafter below:

*“4. That immediately on the receipt of the Financial & Technical audit report dated 22.05.20 of the independent ‘Third Party Agency’, WAPCOS limited, **Annexure R-3/2**, the final bill of all the impugned eight works have been prepared in due course and the petitioner contractor has been found entitled to a sum of Rs.4,80,116/-, **Annexure R-3/3**, which includes the payment of earnest money and security amount and the said amount shall be shortly released to the petitioner. Hence, the Civil writ petition rendered infructuous.”*

While responding to the averment made by the petitioner in paragraph no.2 of the petition with regard to the various works executed, the respondent No.3- Municipal Corporation, Ludhiana has taken the following stand:

“2. That the contents of Para No.2 are incorrect because the work order for all eight impugned works was issued on 21.10.2016. The petitioner was granted two months time for completion of the work as per specifications but the

petitioner miserably defaulted on both the counts. The amount claimed in respect of all the eight impugned works is false and incorrect and based on fake documents. The petitioner has been found entitled to a sum of Rs.4,80,116/- only, Annexure R-3/3.”

Learned counsel for the petitioner contends that the respondents have not disputed their liability with respect to the completed work and the entitlement of the petitioner for the amount of Rs.4,80,116/-. He contends that even the said order was passed in the year 2020 and that the payment in question has not been released despite the order. He contends that a wrong stand has been adopted by the respondent No.3 insofar as the remaining executed works are concerned. However, he would be satisfied in case a direction is issued to the respondent-authorities to release the payment which is admitted by them and to pass a reasoned and speaking order by treating the present writ petition as a representation after granting an opportunity of hearing to the petitioner.

Accordingly, the present petition is disposed of while directing the respondent No.3 to release the undisputed amount in favour of the petitioner within a period of three months from the date of receipt of certified copy of this order. It is, further directed that respondent No.3-Municipal Corporation, Ludhiana shall treat the present writ petition as a representation and shall pass a reasoned and speaking order with regard to the claim raised by the petitioner qua other works that have been claimed to be executed by the petitioner, after affording an effective opportunity of hearing to the respective parties within the period as aforesaid.

The petition stands disposed of accordingly.

Needless to mention that upon consideration, if any amount is found payable to the petitioner, the same shall be disbursed to him

within a further period of three months, failing which the amount so found due would carry interest at the rate of 6% per annum from the date of filing of the present writ petition till actual disbursement.

10.10.2022
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*