

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

137

CWP-23381-2022
Date of Decision: 12.10.2022

M/S KHER CONSTRUCTIONS

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

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

Mr. Saurav Verma, Addl. A.G., Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Articles 226/227 of the Constitution of the India for issuance of a writ in the nature of Mandamus directing the respondents to release the due amount of Rs.2,39,00,118/- qua the work of widening and strengthening of Ropar Bela Road km 0.00 to 13.00 in District Rupnagar (under Head 5054 (RB-10) for the year 20-21) including maintenance of road for five years (one year defect liability period + 4 year maintenance period) executed by the petitioner alongwith interest @ 12% per annum.

Learned counsel for the petitioner contends that the aforesaid work was allotted to the petitioner on 12.02.2021 and he had immediately commenced the same. The payment of the 5th running Bill amounting to Rs.2,39,00,118/- has not been made even though the same had been duly passed by the respondents-Authorities. It is contended that the petitioner visited the office of the respondents on a number of occasions for the due payment of the above said work but the due payment has not been made till

date. Finally a legal notice dated 22.08.2022 was also served. The respondents have replied to the said legal notice on 20.09.2022 and the relevant part of the same reads thus:

“Please refer to above legal notice to this division received by this office on 26.08.2022. In this connection it is intimated that on receiving the 5th running bill for the work of Widening and Strengthening of Ropar Bela Road km 0.00 to 13.10 in District Rupnagar (under Head 5054 (RB-10) for the year 2020-21) was passed and funds amounting to Rs.239.01 Lakhs were demanded by this office, vide E bill File no.e-360925 dt. 19.08.2022 and subsequent reminder issued vide this office no.973-74 dt. 29.08.2022. The payment shall be released on the priority basis as and when funds will be released by Government.”

Learned counsel for the petitioner contends that the respondents have admitted that the amount in question is due and they have not appended any counter claim, deficiency or shortcoming attributable to the petitioner in the execution of the work. The only reason cited by the respondents for non-payment of the amount is that they are yet to receive the payment from the Government without assigning any specific time period within which the said payment would be released. He contends that since the amount in question is not in dispute and that the only reason cited by the respondent-authorities is non-releasing of funds by the Government, he would be satisfied in case the respondent No.4 is directed to consider the present petition as a representation and to decide the same by passing a speaking order thereupon within a specific time frame.

Notice of motion.

Mr. Saurav Verma, Addl. A.G., Punjab who is present in the Court, accepts notice on behalf of the respondents and he has no objection to the innocuous prayer made by the counsel for the petitioner being allowed.

Accordingly, the present petition is disposed of with a direction to the respondent No.4 to consider the present petition as a representation and to consider and decide the same within a period of six weeks from the date of receipt of certified copy of this order.

It is, however, made clear that upon considering the representation, if any amount is found payable to the petitioner, the same shall be disbursed within a period of 08 weeks thereafter, failing which the amount so found due shall carry interest at the rate of 6% per annum from the date of filing of present petition till actual disbursement.

Petition stands disposed of accordingly.

12.10.2022
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No