

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

126

CWP-24016-2022
Date of Decision: 18.10.2022

THE DAGRU CO-OP. L & C SOCIETY LTD. MOGA

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Satnam Singh, Advocate for
 Mr. T.P.S. Makkar, Advocate for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been instituted under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of Certiorari for quashing the inquiry report dated 13.07.2022 (Annexure P-3) given in an inquiry by respondent No.4, whereby a recovery of Rs.10,42,817/- has been effected from the petitioner by respondent No.3 on account of work executed by the petitioner.

Learned counsel for the petitioner contends that the petitioner had executed various works assigned to it from time to time and there has never been any complaint against the works executed by the petitioner. Vide e-tender reference No.LGPMCM/2021/40, a notice inviting tender was issued by the respondent-Department for various development works to be carried out in Moga City. The petitioner had also submitted his bid for the work mentioned at Sr. No.54 of the e-tender notice. On 03.12.2021, the

work of laying interlocking tiles on side berms of Manchanda Colony, Lal Singh Road, Opposite Gill Street, Gil Park, Ward No.5, Moga was allotted to the petitioner vide work order No.46/79 dated 07.12.2021. This work was allotted to the petitioner at 10.29% below OAS. An amount of Rs.39.36 lakh was sanctioned for the said work. The petitioner commenced the work and during the pendency of the work the payment towards running bill was made on regular basis. However, during the above said period, the petitioner was orally told to do the work of closing the ditch (*Naali*) by putting pipes in Inder Singh Gill Nagar, Moga and was also assured that the payment of the said work would be released from the work already allotted to the petitioner as the same is being done on the orders of the higher officials. As per oral instructions, the petitioner completed the said work and the payment towards that work had also been released. Thereafter, a complaint was filed with regard to some works done by the petitioner including the aforesaid work. Inquiry was conducted by respondent No.4. However, without appreciating the submission of the petitioner and statements of the concerned officials, the respondent No.4, vide inquiry report dated 13.07.2022, ordered a recovery of Rs.14,68,755/- less OAS - 29% @ 4,25,938 = Rs.10,42,812/- from the petitioner. The respondent No.4 further threatened the petitioner to sign the recovery notice otherwise the payments of other works of the petitioner would be stopped. Feeling apprehended of the same, the petitioner signed the recovery notice. However, after that, the petitioner served a legal notice dated 16.08.2022 (Annexure P-5) to the respondent No.3 calling upon him to release the balance amount regarding the above said work, but the same has not been decided till date. Rather, the recovery of aforesaid amount of Rs.10,42,812/-

has been made from the outstanding amount of the petitioner qua other works, which is illegal, arbitrary and against the principles of natural justice.

Notice of motion.

Ms. Niharika Sharma, AAG, Punjab, who is present in Court, accepts notice on behalf of the respondent No.1 and seeks time to complete instructions.

Mr. Saurav Verma, who is the Additional Advocate General Punjab and would thus be on the panel of all statutory Board and Corporations of the State of Punjab has been requested to accept notice on behalf of the respondents No.2 to 5.

He accepts notice on the asking of the Court on behalf of the respondents No.2 to 5.

Learned counsel for the petitioner submits that at this juncture, he would be satisfied if the respondent No.3 is directed to consider and decide the legal notice dated 16.08.2022 (Annexure P-5) in a time bound manner.

Both the learned State counsel do not oppose the prayer made by the learned counsel for the petitioner.

Accordingly, in view of the above, the present petition is disposed of with the consent of the parties and without commenting on the merits of the case, with a direction to the respondent No.3 to consider and decide the legal notice dated 16.08.2022 (Annexure P-5) by passing a reasoned and speaking order after affording an opportunity of hearing to the petitioner, within a period of three months from the date of receipt of certified copy of this order.

Needless to mention that upon considering the said legal notice, if any amount is found due and payable to the petitioner, the same shall be disbursed in favour of the petitioner within a further period of three months.

18.10.2022
rajender

(VINOD S. BHARDWAJ)
JUDGE

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